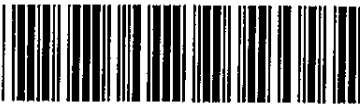


USDC SCAN INDEX SHEET



BRADLEY

HOFFENBERG

TLW

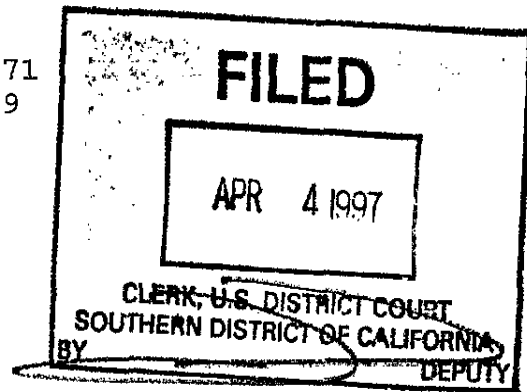
3:96-CV-01023

\*73\*

\*AMDCMP.\*

Timothy C. Karen, Esq., SBN 117071  
Mary Smigielski, Esq., SBN 167829  
LAW OFFICES OF TIMOTHY C. KAREN  
12702 Via Cortina, Suite 100  
Del Mar, California 92014  
(619) 259-7790

Attorneys for Plaintiffs



UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

PAUL F. CLARK, SR., PATRICIA J. ) Case No. 96-1023-J (JFS)  
CLARK, RICHARD H. COOPER, LLOYD )  
GROSS, JENNIE GROSS, ERNEST ) SECOND AMENDED COMPLAINT FOR  
HAMILTON, BETTY M. KOBERNUSS, ) DAMAGES AND FOR:  
GRACE K. MORGAN, JOHN A. LEACH, )  
HELEN H. LEACH, MICHAEL ) 1. VIOLATION OF FEDERAL  
PALMISANO, ROGER M. PALMISANO, ) SECURITIES LAWS  
CRYSTAL L. PALMISANO, RALPH ) 2. REACH OF FIDUCIARY  
BROCKMAN, DANNY N. LITTON, ) DUTY  
WILLIAM D. BRADLEY, EDITH L. ) 3. BREACH OF CONTRACT  
BRADLEY, MICHAEL FLYNN, JANE D. ) 4. BREACH OF TRUST  
WITHERS, WILLIAM BURT ROSENTHAL, ) 5. FINDING OF ALTER EGO  
individually and as Trustee of ) LIABILITY  
the MERIAN L. ROSENTHAL FAMILY ) 6. DECLARATORY RELIEF  
TRUST, MERIAN L. ROSENTHAL, ) 7. NEGLIGENCE  
deceased, BEN E. CARNES, JAMES ) 8. SALE OF UNREGISTERED  
R. FRANKLIN, ROBERT G. ) SECURITIES  
SCHLENZIG, GAIL G. SCHLENZIG, ) DEMAND FOR JURY TRIAL  
BARBARA L. FOSTER, VICTORIA )  
BEIS, ALFRED BEIS, VIOLA M. )  
GIAGNORIO, DANIEL W. GORSKI, )  
ROSE GORSKI, DARLENE E. GORSKI, )  
WILLIAM R. PATZER, DIXON ALLEN, )  
Executor of THE ESTATE OF EARL )  
F. ALLEN, SCOTT CARMONA, ROBERT )  
I. SHERMAN, individually and as )  
Trustee of the ROBERT I. SHERMAN )  
REVOCABLE LIVING TRUST, WILLIAM )  
RANDALL, WINONA RANDALL, STANLEY )  
BRUSKIN, DONALD B. KIEY, ALAN M. )  
NIRENBERG, JEROME M. FELDMAN, )  
STEVEN L. FELDMAN, DEBRA )  
MCENEANY, NORMAN EISNER, GARY )  
MEDWED, JEANNE MEDWED, FRED D. )  
PANEPUCCI, CARROLL V. SORELLE, )  
C.V. SORELLE & COMPANY, a )  
Colorado corporation, STELIO )  
MANGIOLA, JOHN P. CUTLER, )  
BARBARA L. CUTLER, DOUGLAS )

73

LAW OFFICES OF TIMOTHY C. KAREN  
VILLA CORTINA, SUITE 100  
12702 VIA CORTINA  
DEL MAR, CALIFORNIA 92014  
TELEPHONE (619) 259-7790  
FACSIMILE (619) 259-6817

ORIGINAL

1 FAUSER, DALE FAUSER, ISRAEL )  
2 GARTNER, RUTH NIEMCZYK, NATHAN )  
3 REINER, MONTCLAIR INVESTMENT )  
4 CO., a New Jersey corporation, )  
5 JONAS STULMAN, HARVEY PERETZ, )  
6 STEVE RUBENSTEIN, PAULINE )  
7 SCHAFER, MARTIN DOLIN, JOAN )  
8 DOLIN, JEROME FOREMAN, )  
9 individually and as partner of )  
10 WILSHIRE ASSOCIATES, HAROLD )  
11 FOREMAN, individually and as )  
12 partner of WILSHIRE ASSOCIATES, )  
13 GARY HAMILTON, CHARLOTTE BARON, )  
14 GEORGE ZIEFLE, individually and )  
15 as Trustee of A.Q.L. DECORATING )  
16 CO., INC. ESOP, JEANETTE ZIEFLE, )  
17 HARRY SHAPIRO, BERYLLE SHAPIRO, )  
18 STEVEN H. JOHNSON, HOWARD S. )  
19 ALLEN, individually and as )  
20 Trustee of the HOWARD S. ALLEN )  
21 TRUST U/A DTD 09/16/80, RUSSELL )  
22 A. REUTER, JUDITH A. REUTER, )  
23 PAUL MEIER, individually and as )  
24 Trustee of the EXCEL BOTTLING )  
25 CO. PENSION PLAN, PAUL E. MEIER, )  
26 individually and as Trustee of )  
27 the PAUL E. MEIER TRUST, which )  
28 has been transferred to the )  
EDWARD & CATHERINE MEIER )  
IRREVOCABLE INSURANCE TRUST, )  
PAUL E. MEIER, individually and )  
as Trustee of the EDWARD J. )  
MEIER REVOCABLE LIVING TRUST, )  
BRENDA L. PECK, individually and )  
as Trustee of the DETRAE )  
ENTERPRISES, INC. PENSION PLAN, )  
BRENDA L. PECK AKA BRENDA L. )  
BRADY, JOHN RUGGIERO, SYDNEY P. )  
JARKOW, AURELIO M. CACCOMO, )  
ARTHUR M. KRILL, individually )  
and as Trustee of the THE KRILL )  
CO., HENRY C. LOCKLAR, ALLENE K. )  
LOCKLAR, RICHARD D. URWILLER, )  
MICHAEL A. JOHNSON, DONALD M. )  
SWEAZY, JUDITH S. LEE, GEORGE O. )  
CHAPLIN, individually and as )  
Executor of the ESTATE OF )  
CHARLES W. & BETTE J. CHAPLIN, )  
WILLIAM G. LEONARD, JACQUELINE )  
LEONARD, EDWARD RAPPAPORT, I. )  
PAUL RAPPAPORT, individually and )  
as Trustee FBO PAUL RAPPAPORT )  
SELF EMPLOYED MONEY PURCHASE )  
PLAN 12/23/87, I. PAUL )  
RAPPAPORT, individually and as )

Trustee FBO PAUL RAPPAPORT SELF )  
EMPLOYED PROFIT SHARING PLAN )  
12/23/87, RANDYE RAPPAPORT, )  
RICHARD WORTH, ILA MAY HOLMES, )  
KENNETH C. GRIFFITH, JOAN P. )  
GRIFFITH, STUART J. HEPBURN, and )  
BETTY F. HEPBURN, )

Plaintiffs, )

v. )

ANDOVER SECURITIES, INC., a )  
Missouri corporation, GARY )  
BOHLING, JAY BIEDENHARN AKA )  
JOSEPH AUGUSTUS BIEDENHARN II, )  
WILLIAM E. POWDRILL III, JAMES )  
MCCURRY, CAMBRIDGE CAPITAL )  
MANAGEMENT, a Michigan )  
corporation, JEFFREY A. EGAN, )  
DANIEL P. THOMAS, CENTER CITY )  
PLANNING, a New York )  
corporation, JOSEPH A. CLAIR )  
III, GARY HONODEL, NEIDIGER, )  
TUCKER, BRUNER, INC., a Colorado )  
corporation, DENNIS M. )  
EICHINGER, JAMES L. FAINTER, )  
CRAIG OVERMEYER, DAVIDSON )  
SECURITIES, a corporation, J.O. )  
DAVIDSON & ASSOCIATES, INC., a )  
Kansas corporation, DALE )  
KIDWELL, JOHN AHLBRAND, RON )  
BRAY, ENRIGHT FINANCIAL )  
ADVISORS, a New Jersey )  
corporation, STEVEN ENRIGHT, )  
HARBOUR INVESTMENTS, INC., a )  
Wisconsin corporation, TERRANCE )  
P. JANKE, HARLAND FINANCIAL )  
SERVICES CORP., a New York )  
corporation, JEFFREY G. LEVY, )  
KURZ-LIEBOW & COMPANY, INC., a )  
New York corporation, HERBERT )  
SARAGA, JACQUES SARTISKY, GERALD )  
CORAGGIO, I DO ENTERPRISES, )  
INC., dba GENEVA INVESTMENT )  
GROUP, an Illinois corporation, )  
MICHAEL D. OLESEN, GILL AND )  
ASSOCIATES, INC., a Colorado )  
corporation, TED GILL, HALPERT & )  
CO., formerly HALPERT, OBERST & )  
COMPANY, a New Jersey )  
corporation, NANCY LYNN BARRETT, )  
MICHAEL GOLDSTEIN, ALAN HALPERT, )  
MICHAEL J. PETRUCELLI, MATHEW )  
COHEN, JAY R. OBERST, PATRICK J. )

1 TIEDEMANN, LINDA D. PYNAPPEL, )  
2 JINCO LEASING CORP., dba JINCO )  
3 FINANCIAL CORP., a Colorado )  
4 corporation, WAYNE MORRISON, )  
5 KARL KITTLAUS, M.E. METZLER )  
6 ORGANIZATION, INC., a Missouri )  
7 corporation, MILTON E. METZLER, )  
8 MICHAEL COURTE, MONETA FINANCIAL )  
9 SERVICES, a corporation, )  
10 FREDERICK ELIASSEN, PETER )  
11 SPANIOL, GARY BALUMAS, HERBERT )  
12 B. JENKINS, PENSIONS FOR )  
13 BUSINESS, INC., a New York )  
14 corporation, PROFESSIONAL )  
15 BUSINESS CONSULTANTS, an )  
16 Illinois corporation, DAVID J. )  
17 WELLEHAN, R.G. DICKINSON & CO., )  
18 an Iowa corporation, THOMAS M. )  
19 LOBAUGH, BOB BUCHER, SCOTT S. )  
20 MCGOUGH, JOHN SULLIVAN, BARBARA )  
KELLEY, SINE QUA NON, a New York )  
corporation, JAY C. BUITENKENT, )  
JIMMY OZMER, ETON SECURITIES )  
CORPORATION, a corporation, )  
MONVEST SECURITIES, INC., a )  
corporation, ANDREW REEGEN, )  
MITCHELL BRATER, T.L. SMITH )  
SECURITIES, a Texas corporation, )  
FRED R. LEFEVRE, RONALD IRVING )  
RAPPAPORT, SOUTHWEST SECURITIES, )  
INC., a Delaware corporation, )  
TRANSCO SECURITIES, a )  
corporation, ED SCHUCHARDT, U.S. )  
SECURITIES CLEARING CORP., an )  
Oregon corporation, DON JONES, )  
VAUTRAIN NELSON LEFEVRE ENDSLEY )  
AND DURHAM, INC., a Texas )  
corporation, and LYNN VAUTRAIN, )

Defendants.

/ / /

1 Plaintiffs demand a jury trial and allege:

2 1. This action asserts claims under section 12(1) and (2) and  
3 section 15 of the Securities Act of 1933, 15 U.S.C. §§ 77e, 771(1) and  
4 (2), and 77o; section 10(b) of the Securities Exchange Act of 1934,  
5 15 U.S.C. § 78j(b), and Securities and Exchange Commission Rule 10b-5  
6 promulgated thereunder, 17 C.F.R. § 240.10b-5; section 20 of the Exchange  
7 Act, 15 U.S.C. § 78t; the applicable state "blue sky" statutes; and  
8 the common law for fraud, negligent misrepresentation, negligence, breach  
9 of fiduciary duty and declaratory relief.

10 2. This Court has jurisdiction over the federal claims herein  
11 under section 22(a) of the Securities Act, 15 U.S.C. § 77v(a); section  
12 27 of the Exchange Act, 15 U.S.C. § 78aa. The Court has supplemental  
13 jurisdiction over the state law claims herein under 28 U.S.C. § 1367.  
14 This action asserts federal claims under section 12(1) and (2) and  
15 section 15 of the Securities Act of 1933, 15 U.S.C. §§ 77e, 771(1) and  
16 (2), and 77o; section 10(b) of the Securities Exchange Act of 1934,  
17 15 U.S.C. § 78j(b), and Securities and Exchange Commission Rule 10b-5  
18 promulgated thereunder, 17 C.F.R. § 240.10b-5; section 20 of the Exchange  
19 Act, 15 U.S.C. § 78t and various State common law or Statutory causes  
20 of action.

21 3. Plaintiffs in this action were investor clients of the  
22 Defendant brokerage houses/financial advisors/stockbrokers who are sued  
23 herein. Plaintiffs informed their stockbroker/brokerage house/financial  
24 advisor, in substance, that they wanted to invest only in low risk,  
25 secure investments to ensure the preservation of Plaintiffs' capital.

26 4. The stockbroker/brokerage house/financial advisor in substance  
27 represented to Plaintiffs that they possessed expert education, skill,  
28 experience, and knowledge necessary to provide expert and competent

1 advice, counselling, guidance and ancillary services in connection with  
2 personal financial planning and the provision of services in connection  
3 with the analysis, acquisition, and management of investment products  
4 suitable for Plaintiffs. Further, the stockbroker/brokerage  
5 house/financial advisor assured Plaintiffs that they would be capable  
6 of placing Plaintiffs into investments which would meet their avowed  
7 goal.

8 5. The stockbroker/brokerage house/financial advisor, also in  
9 substance, represented to Plaintiffs that the various investments the  
10 stockbroker/brokerage house/financial advisor would recommend would  
11 indeed preserve Plaintiffs' capital, and as their investment advisor,  
12 the stockbroker/brokerage house/financial advisor would monitor Plain-  
13 tiffs' investments and financial condition and make such additional  
14 recommendations as were necessary to fulfill Plaintiffs' financial goals.

15 6. Further, the stockbroker/brokerage house/financial advisor,  
16 in substance, told Plaintiffs that the stockbroker/brokerage  
17 house/financial advisor would at all times serve only the best interests  
18 of Plaintiffs, and, in substance, act as a fiduciary for Plaintiffs  
19 as to all matters relating to such transactions.

20 7. Based on the stockbroker/brokerage house/financial advisor'  
21 representations, Plaintiffs retained the stockbroker/brokerage  
22 house/financial advisor to provide expert financial advice for  
23 Plaintiffs.

24 8. From the very beginning of Plaintiffs' involvement with the  
25 stockbroker/brokerage house/financial advisor, Plaintiffs in substance  
26 stressed to the stockbroker/brokerage house/financial advisor that at  
27 no time did Plaintiffs intend to risk any of their principal investment,  
28



1 nor grant the stockbroker/brokerage house/financial advisor the authority  
2 to place their money in a high risk type of investment product.

3 TRANSACTIONS IN TOWERS NOTES AND OTHER UNSUITABLE INVESTMENTS

4 9. On the dates and in the amounts set forth below, the  
5 stockbroker/brokerage house/financial advisor, in the improper manner  
6 alleged herein, recommended that Plaintiffs purchase either Towers  
7 Financial Corporation Promissory Notes ["Towers Notes"] or other  
8 unsuitable investments, and Plaintiffs relied upon and followed such  
9 recommendations.

10 10. Defendant ANDOVER SECURITIES, INC. ["ANDOVER"] is a duly  
11 organized Missouri corporation and is a securities broker-dealer and  
12 member of the National Association of Securities Dealers which is based  
13 in Kansas City, Missouri who in the improper manner alleged herein  
14 offered and sold, inter alia, Towers Notes. GARY BOHLING ["BOHLING"]  
15 was a stockbroker employed by ANDOVER who, in the improper manner alleged  
16 herein, recommended and sold \$30,000.00 worth of note(s) on or about  
17 April 21, 1992 and \$30,000.00 worth of note(s) on or about April 28,  
18 1992 to PAUL F. CLARK, SR. and PATRICIA J. CLARK; \$50,000.00 worth of  
19 note(s) to RICHARD H. COOPER; \$55,000.00 worth of note(s) to LLOYD GROSS  
20 and JENNIE GROSS; \$60,000.00 worth of note(s) to ERNEST HAMILTON;  
21 \$25,000.00 worth of note(s) on or about September 13, 1991 to BETTY  
22 M. KOBERNUSS and GRACE K. MORGAN; \$15,000.00 worth of note(s) on or  
23 about May 17, 1988 and \$25,000.00 worth of note(s) on or about July  
24 23, 1989 to JOHN A. LEACH and HELEN H. LEACH; \$100,000.00 worth of  
25 note(s) to MICHAEL PALMISANO; and \$35,000.00 worth of note(s) to ROGER  
26 M. PALMISANO and CRYSTAL L. PALMISANO. The acts and omissions of BOHLING  
27 were within the course and scope of his agency for Defendant ANDOVER  
28 and at all times relevant herein, BOHLING was acting under the



1 supervision, direction and control of and with the express and implied  
2 authorization of the shareholders, officers, compliance officers,  
3 directors, registered principals and other management level officials  
4 of ANDOVER.

5 11. Biedenharn Investment Group, Inc. was a duly organized  
6 corporation, securities broker-dealer and member of the National  
7 Association of Securities Dealers. Biedenharn Investment Group, which  
8 was based in Shreveport, Louisiana, in the improper manner alleged herein  
9 offered and sold, inter alia, Towers Notes prior to declaring bankruptcy.  
10 Defendant JAY BIEDENHARN AKA JOSEPH AUGUSTUS BIEDENHARN II was a  
11 stockbroker employed by Biedenharn Investment Group, Inc. who, in the  
12 improper manner alleged herein, recommended and sold \$100,000.00 worth  
13 of note(s) to RALPH BROCKMAN. Defendant WILLIAM E. POWDRILL III was  
14 a stockbroker employed by Biedenharn Investment Group, Inc. who, in  
15 the improper manner alleged herein, recommended and sold \$500,000.00  
16 worth of note(s) on or about August 13, 1990 and \$150,000.00 worth of  
17 note(s) on or about June 1, 1991 to DANNY N. LITTON. The acts and  
18 omissions of JAY BIEDENHARN AKA JOSEPH AUGUSTUS BIEDENHARN II and  
19 POWDRILL were within the course and scope of their agency for Defendant  
20 Biedenharn Investment Group, Inc. and at all times relevant herein,  
21 JAY BIEDENHARN AKA JOSEPH AUGUSTUS BIEDENHARN II and POWDRILL were acting  
22 under the supervision, direction and control of and with the express  
23 and implied authorization of the shareholders, officers, compliance  
24 officers, directors, registered principals and other management level  
25 officials of Biedenharn Investment Group, Inc. Plaintiffs are informed  
26 and believe that Defendants JAMES MCCURRY, WILLIAM E. POWDRILL III,  
27 JAY BIEDENHARN AKA JOSEPH AUGUSTUS BIEDENHARN II are the officers,  
28 directors, compliance officers, managers, owners and/or registered

1 principals and/or control persons and/or and alter-egos of Biedenharn  
2 Investment Group, Inc. and said Defendants encouraged and/or authorized  
3 and/or assisted and/or participated in and ratified the wrongful conduct  
4 alleged herein and are directly and secondarily liable for the acts  
5 and omissions of Biedenharn Investment Group, Inc. and its agents,  
6 representatives, and employees as alleged herein.

7  
8 12. Cambridge Financial Services, Inc. ["Cambridge"] is a duly  
9 organized Michigan corporation and is a securities broker-dealer and  
10 member of the National Association of Securities Dealers which is based  
11 in Birmingham, Michigan. Plaintiffs are informed and believe that  
12 Defendant CAMBRIDGE CAPITAL MANAGEMENT, a duly organized Michigan  
13 corporation, is the successor in interest to/alter ego of/AKA Cambridge.  
14 Defendants JEFFREY A. EGAN ["EGAN"] and DANIEL P. THOMAS ["THOMAS"]  
15 were stockbrokers employed by Cambridge who, in the improper manner  
16 alleged herein, recommended and sold \$75,000.00 worth of note(s) to  
17 WILLIAM D. BRADLEY and EDITH L. BRADLEY. The acts and omissions of  
18 EGAN and THOMAS were within the course and scope of their agency for  
19 Defendant Cambridge and at all times relevant herein, EGAN and THOMAS  
20 were acting under the supervision, direction and control of and with  
21 the express and implied authorization of the shareholders, officers,  
22 compliance officers, directors, registered principals and other  
23 management level officials of Cambridge.

24 13. Defendant CENTER CITY PLANNING ["CENTER"] is a duly organized  
25 New York corporation and is a securities broker-dealer and member of  
26 the National Association of Securities Dealers which is based in New  
27 York, New York who in the improper manner alleged herein offered and  
28 sold, inter alia, Towers Notes. Defendant JOSEPH A. CLAIR III ["CLAIR"]  
was a stockbroker employed by CENTER who, in the improper manner alleged

1 herein, recommended and sold \$75,000.00 worth of note(s) to MICHAEL  
2 FLYNN. The acts and omissions of CLAIR were within the course and scope  
3 of his agency for Defendant CENTER and at all times relevant herein,  
4 CLAIR was acting under the supervision, direction and control of and  
5 with the express and implied authorization of the shareholders, officers,  
6 compliance officers, directors, registered principals and other  
7 management level officials of CENTER.

8 14. Coastal Equities, Inc. ["Coastal"], listed as Defendant Coast  
9 Securities in the complaint and first amended complaint, is a duly  
10 organized corporation and is a securities broker-dealer and member of  
11 the National Association of Securities Dealers which is based in  
12 Falmouth, Massachusetts who in the improper manner alleged herein offered  
13 and sold, inter alia, Towers Notes. Defendant GARY HONODEL ["HONODEL"],  
14 listed as Defendant Gary Hanadel in the complaint and first amended  
15 complaint, was a stockbroker employed by Coastal who, in the improper  
16 manner alleged herein, recommended and sold \$60,000.00 worth of note(s)  
17 to JANE D. WITHERS. The acts and omissions of HONODEL were within the  
18 course and scope of his agency for Defendant Coastal and at all times  
19 relevant herein, HONODEL was acting under the supervision, direction  
20 and control of and with the express and implied authorization of the  
21 shareholders, officers, compliance officers, directors, registered  
22 principals and other management level officials of Coastal. Defendant  
23 NEIDIGER, TUCKER, BRUNER, INC., ["NEIDIGER"] is a duly organized Colorado  
24 corporation and is a securities broker-dealer and member of the National  
25 Association of Securities Dealers which is based in Colorado Springs,  
26 Colorado which Plaintiffs are informed and believe in the improper manner  
27 alleged herein offered and sold, inter alia, Towers Notes. Plaintiffs  
28

1 are further informed and believed that Defendant HOLODEL was also  
2 registered with NEIDIGER at the time this sale took place.

3  
4 15. Consolidated Investment Services ["Consolidated"] is a duly  
5 organized Colorado corporation and is a securities broker-dealer and  
6 member of the National Association of Securities Dealers which is based  
7 in Littleton, Colorado who in the improper manner alleged herein offered  
8 and sold, inter alia, Towers Notes. A registered representative  
9 employed by Consolidated recommended and sold \$25,000.00 worth of note(s)  
10 on or about July 28, 1991 and \$20,000.00 worth of note(s) on or about  
11 December 8, 1991 to WILLIAM BURT ROSENTHAL and MERIAN L. ROSENTHAL,  
12 deceased; \$15,000.00 worth of note(s) on or about August 1, 1992 to  
13 the MERIAN L. ROSENTHAL, deceased, which is now held by WILLIAM BURT  
14 ROSENTHAL, Trustee of the MERIAN L. ROSENTHAL FAMILY TRUST. Defendant  
15 DENNIS M. EICHINGER ["EICHINGER"] was a stockbroker employed by  
16 Consolidated who, in the improper manner alleged herein, recommended  
17 and sold \$150,000.00 worth of note(s) on or about July 26, 1992;  
18 \$15,000.00 worth of note(s) on or about December 27, 1992, \$10,000.00  
19 worth of note(s) on or about July 8, 1992, \$19,000.00 worth of note(s)  
20 on or about March 14, 1992, \$77,000.00 worth of note(s) on or about  
21 April 4, 1991, \$5,000.00 worth of note(s) on or about April 4, 1991,  
22 and \$101,000.00 worth of note(s) on or about June 9, 1991 to BEN E.  
23 CARNES; \$86,000.00 worth of note(s) to JAMES R. FRANKLIN; and \$217,000.00  
24 worth of note(s) to ROBERT G. SCHLENZIG and GAIL G. SCHLENZIG. Defendant  
25 JAMES L. FAINTER ["FAINTER"] and Charlotte S. Riviera ["Riviera"] were  
26 stockbrokers employed by Consolidated who, in the improper manner alleged  
27 herein, recommended and sold \$50,000.00 worth of note(s) to BARBARA  
28 L. FOSTER. FAINTER also recommended and sold \$18,000.00 worth of note(s)  
in or about November of 1991 to VICTORIA BEIS; \$18,000.00 worth of

1 note(s) in or about November of 1991, \$53,000.00 worth of note(s) in  
2 or about November of 1991, and \$10,000.00 worth of note(s) in or about  
3 December of 1991 to ALFRED BEIS; \$35,000.00 worth of note(s) on or about  
4 December 7, 1992 and \$28,000.00 worth of note(s) on or about November  
5 20, 1992 to VIOLA M. GIAGNORIO; \$70,000.00 worth of note(s) on or about  
6 August 6, 1991 to DANIEL W. GORSKI; \$50,000.00 worth of note(s) on or  
7 about September 29, 1991 to DANIEL W. GORSKI and ROSE GORSKI; and  
8 \$200,000.00 worth of note(s) on or about September 14, 1992 to DANIEL  
9 W. and DARLENE E. GORSKI. The acts and omissions of EICHINGER, FAINTER  
10 and Riviera were within the course and scope of his agency for  
11 Consolidated and at all times relevant herein, EICHINGER, FAINTER and  
12 Riviera were acting under the supervision, direction and control of  
13 and with the express and implied authorization of the shareholders,  
14 officers, compliance officers, directors, registered principals and  
15 other management level officials of Consolidated.

16 16. Cooper Investment Partners, Inc., formerly Cooper-Davis, Ltd.  
17 ["Cooper-Davis"] is a duly organized Illinois corporation and is a  
18 securities broker-dealer and member of the National Association of  
19 Securities Dealers which is based in Chicago, Illinois who in the  
20 improper manner alleged herein offered and sold, inter alia, Towers  
21 Notes. Defendant CRAIG OVERMEYER ["OVERMEYER"] was a stockbroker  
22 employed by Cooper-Davis who, in the improper manner alleged herein,  
23 recommended and sold \$200,000.00 worth of note(s) to WILLIAM R. PATZER.  
24 The acts and omissions of OVERMEYER were within the course and scope  
25 of his agency for Defendant Cooper-Davis and at all times relevant  
26 herein, OVERMEYER was acting under the supervision, direction and control  
27 of and with the express and implied authorization of the shareholders,  
28

1 officers, compliance officers, directors, registered principals and  
2 other management level officials of Cooper-Davis.

3  
4 17. Defendant DAVIDSON SECURITIES ["DAVIDSON"] is a duly organized  
5 corporation and is a securities broker-dealer and member of the National  
6 Association of Securities Dealers which is based in Wichita, Kansas  
7 who in the improper manner alleged herein offered and sold, inter alia,  
8 Towers Notes. Plaintiffs are informed and believe that Defendant J.O.  
9 DAVIDSON & ASSOCIATES, INC., a Kansas corporation, is the successor  
10 in interest to/alter ego of/AKA of Davidson. Defendant DALE KIDWELL  
11 ["KIDWELL"] was a stockbroker employed by DAVIDSON who, in the improper  
12 manner alleged herein, recommended and sold \$50,000.00 worth of note(s)  
13 on or about January 14, 1991 and \$50,000.00 worth of note(s) on or about  
14 July 3, 1991 to DIXON ALLEN, Executor of THE ESTATE OF EARL F. ALLEN.  
15 The acts and omissions of KIDWELL were within the course and scope of  
16 his agency for Defendant DAVIDSON and at all times relevant herein,  
17 KIDWELL was acting under the supervision, direction and control of and  
18 with the express and implied authorization of the shareholders, officers,  
19 compliance officers, directors, registered principals and other  
20 management level officials of DAVIDSON.

21 18. Defendant East-West Capital Corporation ["East-West"] is a  
22 duly organized Michigan corporation and is a securities broker-dealer  
23 and member of the National Association of Securities Dealers which is  
24 based in Harper Woods, Michigan who in the improper manner alleged herein  
25 offered and sold, inter alia, Towers Notes, City-Ohio Partners II, L.P.,  
26 City-Hilton Head Partners, L.P., Overland Express Funds, Inc.,  
27 Continental Capital Income Fund II, L.P., and Auto Credit Finance  
28 promissory notes. Defendant JOHN AHLBRAND ["AHLBRAND"] was a stockbroker  
employed by East-West who, in the improper manner alleged herein,



1 recommended and sold \$100,000.00 worth of note(s) on or about April  
2 16, 1991, \$100,000.00 worth of note(s) on or about December 28, 1991,  
3 \$100,000.00 worth of note(s) on or about October 4, 1991, \$100,000.00  
4 worth of note(s) on or about April 5, 1990, and \$100,000.00 worth of  
5 note(s) on or about April 15, 1992 to SCOTT CARMONA; and \$50,000.00  
6 worth of note(s) on or about July 16, 1991, \$50,000.00 worth of note(s)  
7 on or about October 11, 1991, and \$60,000.00 worth of note(s) on or  
8 about August 2, 1992 to ROBERT I. SHERMAN, Trustee of the ROBERT I.  
9 SHERMAN REVOCABLE LIVING TRUST. Defendant RON BRAY ["BRAY"] was a  
10 stockbroker employed by East-West who, in the improper manner alleged  
11 herein, recommended and sold \$100,000.00 worth of note(s) on or about  
12 March 10, 1992 to WILLIAM RANDALL and WINONA RANDALL. The acts and  
13 omissions of AHLBRAND and BRAY were within the course and scope of their  
14 agency for Defendant East-West and at all times relevant herein, AHLBRAND  
15 and BRAY were acting under the supervision, direction and control of  
16 and with the express and implied authorization of the shareholders,  
17 officers, compliance officers, directors, registered principals and  
18 other management level officials of East-West.

19 19. Defendant ENRIGHT FINANCIAL ADVISORS ["ENRIGHT FINANCIAL"]  
20 is a duly organized New Jersey corporation which is based in Westwood,  
21 New Jersey. Defendant STEVEN ENRIGHT ["ENRIGHT"] was a financial advisor  
22 employed by ENRIGHT FINANCIAL who recommended \$100,000.00 worth of Towers  
23 note(s) to STANLEY BRUSKIN at a time when BRUSKIN was a client of ENRIGHT  
24 who relied upon ENRIGHT's skill, knowledge and expertise as a financial  
25 advisor. Based upon ENRIGHT's recommendations, BRUSKIN purchased a  
26 like amount of Towers Notes from Martin Kaiden ["Kaiden"]. The acts  
27 and omissions of ENRIGHT were within the course and scope of his agency  
28 for Defendant ENRIGHT FINANCIAL and/or Kaiden and at all times relevant



1 herein, ENRIGHT was acting under the supervision, direction and control  
2 of and with the express and implied authorization of the shareholders,  
3 officers, compliance officers, directors, registered principals and  
4 other management level officials of ENRIGHT FINANCIAL or Kaiden.

5 20. Defendant HARBOUR INVESTMENTS, INC. ["HARBOUR"] is a duly  
6 organized Wisconsin corporation and is a securities broker-dealer and  
7 member of the National Association of Securities Dealers which is based  
8 in Madison, Wisconsin who in the improper manner alleged herein offered  
9 and sold, inter alia, Towers Notes. TERRANCE P. JANKE ["JANKE"] was  
10 a stockbroker employed by HARBOUR who, in the improper manner alleged  
11 herein, recommended and sold \$50,000.00 worth of note(s) to DONALD B.  
12 KIEY. The acts and omissions of JANKE were within the course and scope  
13 of his agency for Defendant HARBOUR and at all times relevant herein,  
14 JANKE was acting under the supervision, direction and control of and  
15 with the express and implied authorization of the shareholders, officers,  
16 compliance officers, directors, registered principals and other  
17 management level officials of HARBOUR.

18 21. Defendant HARLAND FINANCIAL SERVICES CORP. ["HARLAND"] is  
19 a duly organized New York corporation and is a securities broker-dealer  
20 and member of the National Association of Securities Dealers which is  
21 based in New York, New York who in the improper manner alleged herein  
22 offered and sold, inter alia, Towers Notes. JEFFREY G. LEVY ["LEVY"]  
23 was a stockbroker employed by HARLAND who, in the improper manner alleged  
24 herein, recommended and sold \$35,000.00 worth of note(s) on or about  
25 June 12, 1991 and \$30,000.00 worth of note(s) on or about April 14,  
26 1992 to ALAN M. NIRENBERG. The acts and omissions of LEVY were within  
27 the course and scope of his agency for Defendant HARLAND and at all  
28 times relevant herein, LEVY was acting under the supervision, direction

1 and control of and with the express and implied authorization of the  
2 shareholders, officers, compliance officers, directors, registered  
3 principals and other management level officials of HARLAND.

4 22. Defendant KURZ-LIEBOW & COMPANY, INC. ["KURZ-LIEBOW"] is a  
5 duly organized New York corporation and is a securities broker-dealers  
6 and member of the National Association of Securities Dealers which is  
7 based in New York, New York who in the improper manner alleged herein  
8 offered and sold, inter alia, Towers Notes. A registered representative  
9 employed by KURZ-LIEBOW recommended and sold \$150,000.00 worth of note(s)  
10 to JEROME M. FELDMAN and STEVEN L. FELDMAN. Defendant HERBERT SARAGA  
11 ["SARAGA"] was a stockbroker employed by KURZ-LIEBOW who, in the improper  
12 manner alleged herein, recommended and sold \$25,000.00 worth of note(s)  
13 in or about 1990 to DEBRA MCENEANY. Defendant JACQUES SARTISKY  
14 ["SARTISKY"] was a stockbroker employed by KURZ-LIEBOW who, in the  
15 improper manner alleged herein, recommended and sold \$50,000.00 worth  
16 of note(s) to NORMAN EISNER. Defendant GERALD CORAGGIO, listed as  
17 Defendant Jerry Corraggio in the complaint and first amended complaint,  
18 was a stockbroker employed by KURZ-LIEBOW who, in the improper manner  
19 alleged herein, recommended and sold \$26,000.00 worth of note(s) on  
20 or about September 11, 1989 to GARY MEDWED and JEANNE MEDWED. The acts  
21 and omissions of SARAGA, SARTISKY, AND CORAGGIO were within the course  
22 and scope of their agency for Defendant KURZ-LIEBOW and at all times  
23 relevant herein, SARAGA, SARTISKY, and CORAGGIO were acting under the  
24 supervision, direction and control of and with the express and implied  
25 authorization of the shareholders, officers, compliance officers,  
26 directors, registered principals and other management level officials  
27 of KURZ-LIEBOW.  
28

1           23. Defendant I DO ENTERPRISES, INC. ["I DO"], dba GENEVA  
2 INVESTMENT GROUP, is a duly organized Illinois corporation and is a  
3 securities broker-dealer and member of the National Association of  
4 Securities Dealers which is based in Geneva, Illinois who in the improper  
5 manner alleged herein offered and sold, inter alia, Towers notes.  
6 Defendant MICHAEL D. OLESEN ["OLESEN"] was a stockbroker employed by  
7 GENEVA who, in the improper manner alleged herein, recommended and sold  
8 \$75,000.00 worth of note(s) to FRED D. PANEPUCCI. The acts and omissions  
9 of OLESEN were within the course and scope of their agency for Defendant  
10 I DO and at all times relevant herein, OLESEN was acting under the  
11 supervision, direction and control of and with the express and implied  
12 authorization of the shareholders, officers, compliance officers,  
13 directors, registered principals and other management level officials  
14 of I DO.

15           24. Defendant GILL AND ASSOCIATES, INC., is a duly organized  
16 Colorado corporation and is a securities broker-dealer and member of  
17 the National Association of Securities Dealers which is based in Denver,  
18 Colorado who in the improper manner alleged herein offered and sold,  
19 inter alia, Towers Notes. Defendant TED GILL ["GILL"] was a stockbroker  
20 employed by GILL AND ASSOCIATES, INC. who, in the improper manner alleged  
21 herein, recommended and sold \$250,000.00 to CARROLL V. SORELLE and  
22 \$10,000.00 worth of note(s) to C.V. SORELLE & COMPANY, a Colorado  
23 corporation. The acts and omissions of GILL were within the course  
24 and scope of his agency for Defendant GILL AND ASSOCIATES, INC. and  
25 at all times relevant herein, GILL was acting under the supervision,  
26 direction and control of and with the express and implied authorization  
27 of the shareholders, officers, compliance officers, directors, registered  
28

principals and other management level officials of GILL AND ASSOCIATES, INC.

25. Defendant HALPERT & CO. ["HALPERT"], formerly HALPERT, OBERST & COMPANY, is a duly organized New Jersey corporation and is a securities broker-dealer and member of the National Association of Securities Dealers which is based in Millburn, New Jersey who in the improper manner alleged herein offered and sold, inter alia, Towers Notes. Defendant NANCY LYNN BARRETT ["BARRETT"] was a stockbroker employed by HALPERT who, in the improper manner alleged herein, recommended and sold \$100,000.00 worth of note(s) to STELIO MANGIOLA. Jeffrey A. Ullman ["Ullman"] was a stockbroker employed by HALPERT who, in the improper manner alleged herein, recommended and sold \$75,000.00 worth of note(s) to JOHN P. CUTLER and BARBARA L. CUTLER. MICHAEL GOLDSTEIN ["GOLDSTEIN"] was a stockbroker employed by HALPERT who, in the improper manner alleged herein, recommended and sold \$200,000.00 worth of note(s) to DOUGLAS FAUSER and DALE FAUSER. Alan Gudz ["Gudz"] was a stockbroker employed by HALPERT who, in the improper manner alleged herein, recommended and sold \$35,000.00 worth of note(s) to ISRAEL GARTNER and RUTH NIEMCZYK and \$35,000.00 worth of note(s) to ISRAEL GARTNER and NATHAN REINER. Daniel Lennon ["Lennon"] was a stockbroker employed by HALPERT who, in the improper manner alleged herein, recommended and sold \$44,000.00 worth of note(s) to MONTCLAIR INVESTMENT CO., a New Jersey corporation and \$90,000.00 worth of note(s) to JONAS STULMAN. Scott Margolis ["MARGOLIS"] was a stockbroker employed by HALPERT who, in the improper manner alleged herein, recommended and sold \$100,000.00 worth of note(s) to HARVEY PERETZ. ALAN HALPERT was a stockbroker employed by HALPERT who, in the improper manner alleged herein, recommended and sold \$100,000.00 worth of note(s) to STEVE RUBENSTEIN. Allen Rosenberg

1 ["Rosenberg"] was a stockbroker employed by HALPERT who, in the improper  
2 manner alleged herein, recommended and sold \$25,000.00 worth of note(s)  
3 to PAULINE SCHAFER; \$25,000.00 worth of note(s) to MARTIN DOLIN and  
4 JOAN DOLIN; and \$400,000.00 worth of note(s) to WILSHIRE ASSOCIATES.  
5 Sean Davis ["Davis"] is a stockbroker employed by HALPERT who, in the  
6 improper manner alleged herein, recommended and sold \$36,000.00 worth  
7 of note(s) on or about September 9, 1992 and \$20,000.00 worth of note(s)  
8 on or about January 27, 1993 to GARY HAMILTON. Barry Lippman ["Lippman"]  
9 was a stockbroker employed by HALPERT who, in the improper manner alleged  
10 herein, recommended and sold \$30,000.00 worth of note(s) on or about  
11 August 28, 1992 to CHARLOTTE BARON. MICHAEL J. PETRUCELLI ["PETRUCELLI"]  
12 was a stockbroker employed by HALPERT who, in the improper manner alleged  
13 herein, recommended and sold \$75,000.00 worth of note(s) on or about  
14 November 2, 1992 to A.Q.L. DECORATING CO., INC. - ESOP and \$35,000.00  
15 worth of note(s) on or about November 21, 1992 to JEANETTE ZIEFLE.  
16 MATHEW COHEN was a stockbroker employed by HALPERT who, in the improper  
17 manner alleged herein, recommended and sold \$15,000.00 worth of note(s)  
18 on or about November 30, 1992 to HARRY and BERYLLE SHAPIRO. The acts  
19 and omissions of BARRETT, Ullman, GOLDSTEIN, Gudz, Lennon, Margolis,  
20 ALAN HALPERT, Davis, LIPPMAN, PETRUCELLI, MATHEW COHEN and Rosenberg  
21 were within the course and scope of their agency for Defendant HALPERT  
22 and at all times relevant herein, BARRETT, Ullman, GOLDSTEIN, Gudz,  
23 Lennon, Margolis, ALAN HALPERT, Davis, LIPPMAN, PETRUCELLI, MATHEW COHEN  
24 and Rosenberg were acting under the supervision, direction and control  
25 of and with the express and implied authorization of the shareholders,  
26 officers, compliance officers, directors, registered principals and  
27 other management level officials of HALPERT. Plaintiffs are informed  
28 and believe that Defendants ALAN HALPERT, JAY R. OBERST, PATRICK J.

1 TIEDEMANN, PETRUCELLI and LINDA D. PYNAPPEL are owners and/or registered  
2 principals and/or Vice-President and/or control persons and/or and alter-  
3 egos of HALPERT, and said Defendants encouraged and/or authorized and/or  
4 assisted and/or participated in and ratified the wrongful conduct alleged  
5 herein and are directly and secondarily liable for the acts and omissions  
6 of HALPERT and its agents, representatives, and employees as alleged  
7 herein.

8 26. Defendant JINCO LEASING CORP. ["JINCO"], dba JINCO FINANCIAL  
9 CORP., is a duly organized Colorado corporation and is a securities  
10 broker-dealer and member of the National Association of Securities  
11 Dealers which is based in Denver, Colorado who in the improper manner  
12 alleged herein offered and sold, inter alia, Towers Notes. Defendant  
13 WAYNE MORRISON ["MORRISON"] was a stockbroker employed by JINCO who,  
14 in the improper manner alleged herein, recommended and sold \$50,000.00  
15 worth of note(s) on or about June 23, 1992 to STEVEN H. JOHNSON. The  
16 acts and omissions of MORRISON were within the course and scope of his  
17 agency for Defendant JINCO and at all times relevant herein, MORRISON  
18 was acting under the supervision, direction and control of and with  
19 the express and implied authorization of the shareholders, officers,  
20 compliance officers, directors, registered principals and other  
21 management level officials of JINCO.

22 27. Defendant KITTLAUS COMPANY, is a duly organized corporation  
23 and is a securities broker-dealer and member of the National Association  
24 of Securities Dealers which is based in Chicago, Illinois who in the  
25 improper manner alleged herein offered and sold, inter alia, Towers  
26 Notes. Defendant KARL KITTLAUS ["KITTLAUS"] was a stockbroker employed  
27 by KITTLAUS COMPANY who, in the improper manner alleged herein,  
28 recommended and sold \$100,000.00 worth of note(s) on or about November



1 13, 1992 to HOWARD S. ALLEN, Trustee of the HOWARD S. ALLEN TRUST U/A  
2 DTD 09/16/80 and \$50,000.00 worth of note(s) to RUSSELL A. REUTER and  
3 JUDITH A. REUTER. The acts and omissions of KITTLAUS were within the  
4 course and scope of his agency for Defendant KITTLAUS COMPANY and at  
5 all times relevant herein, KITTLAUS was acting under the supervision,  
6 direction and control of and with the express and implied authorization  
7 of the shareholders, officers, compliance officers, directors, registered  
8 principals and other management level officials of KITTLAUS COMPANY.

9 28. Defendant M.E. METZLER ORGANIZATION, INC. ["METZLER, INC."] is a  
10 duly organized Missouri corporation and is a securities broker-  
11 dealer and member of the National Association of Securities Dealers  
12 which is based in St. Louis, Missouri who in the improper manner alleged  
13 herein offered and sold, inter alia, Towers Notes. Defendant MICHAEL  
14 COURTE ["COURTE"] was a stockbroker employed by METZLER, INC. who, along  
15 with Defendant MILTON E. METZLER, recommended Towers Notes. COURTE  
16 recommended and sold \$100,000.00 worth of note(s) on or about September  
17 30, 1991 to PAUL E. MEIER, Trustee of the EXCEL BOTTLING CO. PENSION  
18 PLAN; \$100,000.00 worth of note(s) on or about March 26, 1992 to PAUL  
19 E. MEIER, Trustee of the PAUL E. MEIER TRUST, which has been transferred  
20 to the EDWARD & CATHERINE MEIER IRREVOCABLE INSURANCE TRUST of which  
21 PAUL E. MEIER is Trustee; and \$100,000.00 worth of note(s) on or about  
22 September 21, 1990 to PAUL E. MEIER, Trustee of the EDWARD J. MEIER  
23 REVOCABLE LIVING TRUST. The acts and omissions of COURTE and MILTON  
24 E. METZLER were within the course and scope of their agency for Defendant  
25 METZLER, INC. and at all times relevant herein, COURTE and MILTON E.  
26 METZLER were acting under the supervision, direction and control of  
27 and with the express and implied authorization of the shareholders,  
28



1 officers, compliance officers, directors, registered principals and  
2 other management level officials of METZLER, INC.

3  
4 29. Defendant MONETA FINANCIAL SERVICES ["MONETA"] is a duly  
5 organized corporation and is a securities broker-dealer and member of  
6 the National Association of Securities Dealers which is based in  
7 Hauppauge, New York who in the improper manner alleged herein offered  
8 and sold, inter alia, Towers Notes. Defendants FREDERICK ELIASSEN  
9 ["ELIASSEN"] and PETER SPANIOL ["SPANIOL"] were stockbrokers employed  
10 by MONETA who, in the improper manner alleged herein, recommended and  
11 sold \$25,000.00 worth of note(s) on or about September 12, 1991 to BRENDA  
12 L. PECK, Trustee of the DETRAE ENTERPRISES, INC. PENSION PLAN; \$25,000.00  
13 worth of note(s) on or about October 28, 1992 to BRENDA L. PECK AKA  
14 BRENDA L. BRADY; and \$62,500.00 worth of note(s) on or about July 28,  
15 1990 and \$50,000.00 worth of note(s) on or about September 21, 1991  
16 to JOHN RUGGIERO. Defendant GARY BALUMAS ["BALUMAS"] was a stockbroker  
17 who was employed by MONETA who, in the improper manner alleged herein,  
18 recommended and sold \$25,000.00 worth of note(s) on or about March 16,  
19 1990, \$37,500.00 worth of note(s) on or about March 16, 1992, and  
20 \$25,000.00 worth of note(s) on or about October 20, 1992 to HERBERT  
21 B. JENKINS. The acts and omissions of ELIASSEN, SPANIOL, and BALUMAS  
22 were within the course and scope of their agency for Defendant MONETA  
23 and at all times relevant herein, ELIASSEN, SPANIOL, and BALUMAS were  
24 acting under the supervision, direction and control of and with the  
25 express and implied authorization of the shareholders, officers,  
26 compliance officers, directors, registered principals and other  
27 management level officials of MONETA.

28 30. Defendant PENSIONS FOR BUSINESS, INC. ["PENSIONS"] is a duly  
organized New York corporation and is a securities broker-dealer and

1 member of the National Association of Securities Dealers which is based  
2 in New York, New York who in the improper manner alleged herein offered  
3 and sold, inter alia, Towers Notes. A registered representative employed  
4 by PENSIONS recommended and sold \$50,000.00 worth of note(s) on or about  
5 October 5, 1991 to SYDNEY P. JARKOW. The acts and omissions of the  
6 stockbroker were within the course and scope of his agency for Defendant  
7 PENSIONS and at all times relevant herein, the stockbroker was acting  
8 under the supervision, direction and control of and with the express  
9 and implied authorization of the shareholders, officers, compliance  
10 officers, directors, registered principals and other management level  
11 officials of PENSIONS.

12 31. Defendant PROFESSIONAL BUSINESS CONSULTANTS ["PBC"] is a duly  
13 organized Illinois corporation and is a securities broker-dealer and  
14 member of the National Association of Securities Dealers which is based  
15 in Oakbrook, Illinois who in the improper manner alleged herein offered  
16 and sold, inter alia, Towers Notes. Defendant DAVID J. WELLEHAN  
17 ["WELLEHAN"] was a stockbroker employed by PBC who, in the improper  
18 manner alleged herein, recommended and sold \$100,000.00 worth of note(s)  
19 to AURELIO M. CACCOMO. The acts and omissions of WELLEHAN were within  
20 the course and scope of his agency for Defendant PBC and at all times  
21 relevant herein, WELLEHAN was acting under the supervision, direction  
22 and control of and with the express and implied authorization of the  
23 shareholders, officers, compliance officers, directors, registered  
24 principals and other management level officials of PBC.

25 32. Defendant R.G. DICKINSON & CO. ["DICKINSON"] is a duly  
26 organized Iowa corporation and is a securities broker-dealer and member  
27 of the National Association of Securities Dealers which is based in  
28 Denver, Colorado who in the improper manner alleged herein offered and

1 sold, inter alia, Towers Notes. Defendant THOMAS M. LOBAUGH ["LOBAUGH"]  
2 was a stockbroker employed by DICKINSON who, in the improper manner  
3 alleged herein, recommended and sold \$35,000.00 worth of note(s) on  
4 or about September 27, 1991 to ARTHUR M. KRILL, Trustee of the THE KRILL  
5 CO.; and \$30,000.00 worth of note(s) on or about August 10, 1991 to  
6 HENRY C. LOCKLAR and ALLENE K. LOCKLAR. Defendant BOB BUCHER ["BUCHER"]  
7 was a stockbroker employed by DICKINSON who, in the improper manner  
8 alleged herein, recommended and sold \$100,000.00 worth of note(s) on  
9 or about February 28, 1992 to RICHARD D. URWILLER. The acts and  
10 omissions of LOBAUGH and BUCHER were within the course and scope of  
11 their agency for Defendant DICKINSON and at all times relevant herein,  
12 LOBAUGH and BUCHER were acting under the supervision, direction and  
13 control of and with the express and implied authorization of the  
14 shareholders, officers, compliance officers, directors, registered  
15 principals and other management level officials of DICKINSON.

16 33. Schneider Securities, Inc. ["Schneider"] is a duly organized  
17 Colorado corporation and is a securities broker-dealer and member of  
18 the National Association of Securities Dealers which is based in Denver,  
19 Colorado who in the improper manner alleged herein offered and sold,  
20 inter alia, Towers Notes. Defendants SCOTT S. MCGOUGH ["MCGOUGH"] and  
21 JOHN SULLIVAN ["SULLIVAN"] were stockbrokers employed by Schneider who,  
22 in the improper manner alleged herein, recommended and sold \$125,000.00  
23 worth of note(s) to MICHAEL A. JOHNSON. Defendant BARBARA KELLEY  
24 ["KELLEY"] was a stockbroker employed by Schneider who, in the improper  
25 manner alleged herein, recommended and sold \$50,000.00 worth of note(s)  
26 to DONALD M. SWEAZY. The acts and omissions of MCGOUGH, SULLIVAN and  
27 KELLEY were within the course and scope of their agency for Schneider  
28 and at all times relevant herein, MCGOUGH, SULLIVAN and KELLEY were

1 acting under the supervision, direction and control of and with the  
2 express and implied authorization of the shareholders, officers,  
3 compliance officers, directors, registered principals and other  
4 management level officials of Schneider.

5  
6 34. Defendant SINE QUA NON is a duly organized New York corporation  
7 and is a securities broker-dealer and member of the National Association  
8 of Securities Dealers which is based in New York, New York who in the  
9 improper manner alleged herein offered and sold, inter alia, Towers  
10 Notes. Defendant JAY C. BUITENKENT ["BUITENKENT"] was a stockbroker  
11 employed by SINE QUA NON who, in the improper manner alleged herein,  
12 recommended and sold \$50,000.00 worth of note(s) on or about July 28,  
13 1987 to JUDITH S. LEE. Defendant JIMMY OZMER ["OZMER"] was a stockbroker  
14 employed by SINE QUA NON who, along with BUITENKENT, in the improper  
15 manner alleged herein offered and sold \$60,000.00 worth of note(s) to  
16 BETTE CHAPLIN. Plaintiff GEORGE O. CHAPLIN, is the Executor of the  
17 ESTATE OF CHARLES W. & BETTE J. CHAPLIN. The acts and omissions of  
18 BUITENKENT and OZMER were within the course and scope of their agency  
19 for Defendant SINE QUA NON and at all times relevant herein, BUITENKENT  
20 and OZMER were acting under the supervision, direction and control of  
21 and with the express and implied authorization of the shareholders,  
22 officers, compliance officers, directors, registered principals and  
23 other management level officials of SINE QUA NON. Defendant ETON  
24 SECURITIES CORPORATION ["ETON"] is a securities broker-dealer and member  
25 of the National Association of Securities Dealers which is based in  
26 New York, New York who in the improper manner alleged herein offered  
27 and sold, inter alia, Towers Notes. Plaintiffs are informed and believe  
28 that ETON is a duly organized New York corporation. Defendant MONVEST  
SECURITIES, INC. ["MONVEST"] is securities broker-dealer and member

1 of the National Association of Securities Dealers which is based in  
2 New York, New York who in the improper manner alleged herein offered  
3 and sold, inter alia, Towers Notes. Plaintiffs are informed and believe  
4 that MONVEST is a duly organized New York corporation. ANDREW REEGEN  
5 ["REEGEN"] was a stockbroker employed by MONVEST. Plaintiffs are  
6 informed and believe that MITCHELL BRATER ["BRATER"] was president of  
7 ETON and that REEGEN was C.E.O. of MONVEST. Plaintiffs are informed  
8 and believe that BRATER and REEGEN also recommended and sold the  
9 \$50,000.00 worth of note(s) on or about July 28, 1987 to JUDITH S. LEE.  
10 The acts and omissions of BRATER and REEGEN were within the course and  
11 scope of their agency for Defendants ETON and MONVEST and at all times  
12 relevant herein, BRATER and REEGEN were acting under the supervision,  
13 direction and control of and with the express and implied authorization  
14 of the shareholders, officers, compliance officers, directors, registered  
15 principals and other management level officials of ETON and MONVATH.

16 35. Defendant T.L. SMITH SECURITIES ["T.L. SMITH"] is a duly  
17 organized Texas corporation and is a securities broker-dealer and member  
18 of the National Association of Securities Dealers which is based in  
19 Fort Worth, Texas who in the improper manner alleged herein offered  
20 and sold, inter alia, Towers Notes. Defendant FRED R. LEFEVRE  
21 ["LEFEVRE"] was a stockbroker employed by T.L. SMITH who, in the improper  
22 manner alleged herein, recommended and sold \$100,000.00 worth of note(s)  
23 to WILLIAM G. and JACQUELINE LEONARD. Defendant RONALD IRVING RAPPAPORT  
24 was a stockbroker employed by T.L. SMITH. LEFEVRE and RONALD IRVING  
25 RAPPAPORT recommended and sold \$51,299.00 worth of note(s) on or about  
26 November 12, 1992 to EDWARD RAPPAPORT in an IRA/SEP account; \$42,404.00  
27 worth of note(s) on or about July 14, 1992 to I. PAUL RAPPAPORT, TRUSTEE  
28 FBO PAUL RAPPAPORT SELF EMPLOYED MONEY PURCHASE PLAN 12/23/87; \$14,137.00

1 worth of note(s) on or about July 14, 1992 to I. PAUL RAPPAPORT, TRUSTEE  
2 FBO PAUL RAPPAPORT SELF EMPLOYED PROFIT SHARING PLAN 12/23/87; \$28,942.37  
3 worth of note(s) on or about November 20, 1992 to RANDYE RAPPAPORT in  
4 an IRA account; and \$12,500.00 worth of note(s) on or about December  
5 1, 1992 to RICHARD WORTH. The acts and omissions of LEFEVRE and RONALD  
6 IRVING RAPPAPORT were within the course and scope of their agency for  
7 Defendant T.L. SMITH and at all times relevant herein, LEFEVRE and RONALD  
8 IRVING RAPPAPORT were acting under the supervision, direction and control  
9 of and with the express and implied authorization of the shareholders,  
10 officers, compliance officers, directors, registered principals and  
11 other management level officials of T.L. SMITH. Plaintiffs are informed  
12 and believe that Defendant LEFEVRE is an owner and/or registered  
13 principal and/or control person and/or alter-ego of T.L. SMITH and  
14 said Defendant encouraged and/or authorized and/or assisted and/or  
15 participated in and ratified the wrongful conduct alleged herein and  
16 are directly and secondarily liable for the acts and omissions of T.L.  
17 SMITH and its agents, representatives, and employees as alleged herein.  
18 Defendant SOUTHWEST SECURITIES, INC. ["SOUTHWEST"] is a duly organized  
19 Delaware corporation and is a securities broker-dealer and member of  
20 the National Association of Securities Dealers which is based in Dallas,  
21 Texas which Plaintiffs are informed and believe in the improper manner  
22 alleged herein offered and sold, inter alia, Towers Notes to these  
23 Plaintiffs through an affiliation with T.L. SMITH. Plaintiffs are  
24 further informed and believed that LEFEVRE and RONALD IRVING RAPPAPORT  
25 were affiliated with SOUTHWEST and that the acts and omissions of LEFEVRE  
26 and RONALD IRVING RAPPAPORT were within the course and scope of their  
27 agency for Defendant SOUTHWEST at all times relevant herein, LEFEVRE  
28 and RONALD IRVING RAPPAPORT were acting under the supervision, direction



1 and control of and with the express and implied authorization of the  
2 shareholders, officers, compliance officers, directors, registered  
3 principals and other management level officials of SOUTHWEST.

4 36. Defendant TRANSCO SECURITIES ["TRANSCO"] is a duly organized  
5 corporation and is a securities broker-dealer and member of the National  
6 Association of Securities Dealers who in the improper manner alleged  
7 herein offered and sold, inter alia, Towers Notes. ED SCHUCHARDT  
8 ["SCHUCHARDT"], listed in the complaint and first amended complaint  
9 as Defendant Ed Schuhart, was a stockbroker employed by TRANSCO who,  
10 in the improper manner alleged herein, recommended and sold \$45,000.00  
11 worth of note(s) to ILA MAY HOLMES. The acts and omissions of SCHUCHARDT  
12 were within the course and scope of his agency for Defendant TRANSCO  
13 and at all times relevant herein, SCHUCHARDT was acting under the  
14 supervision, direction and control of and with the express and implied  
15 authorization of the shareholders, officers, compliance officers,  
16 directors, registered principals and other management level officials  
17 of TRANSCO.

18 37. Defendant U.S. SECURITIES CLEARING CORP. ["U.S. SECURITIES"],  
19 listed in the complaint and first amended complaint as Defendant US  
20 Clearing West, Seattle, is a duly organized Oregon corporation and is  
21 a securities broker-dealer and member of the National Association of  
22 Securities Dealers which is based in Seattle, Washington who in the  
23 improper manner alleged herein offered and sold, inter alia, Towers  
24 Notes. Defendant DON JONES ["JONES"] was a stockbroker employed by  
25 U.S. SECURITIES who, in the improper manner alleged herein, recommended  
26 and sold \$50,000.00 worth of note(s) to KENNETH C. GRIFFITH and JOAN  
27 P. GRIFFITH. The acts and omissions of JONES were within the course  
28 and scope of his agency for Defendant U.S. SECURITIES and at all times



1 relevant herein, JONES was acting under the supervision, direction and  
2 control of and with the express and implied authorization of the  
3 shareholders, officers, compliance officers, directors, registered  
4 principals and other management level officials of U.S. SECURITIES.

5 38. Defendant VAUTRAIN NELSON LEFEVRE ENDSLEY AND DURHAM, INC.  
6 ["VAUTRAIN"] is a duly organized Texas corporation and is a securities  
7 broker-dealer and member of the National Association of Securities  
8 Dealers which is based in Fort Worth, Texas who in the improper manner  
9 alleged herein offered and sold, inter alia, Towers notes. Kirby Endsley  
10 ["Endsley"] was a stockbroker employed by VAUTRAIN who, along with  
11 Defendant LEFEVRE, who was a stockbroker employed by T.L. SMITH,  
12 recommended and sold \$150,000.00 worth of note(s) to STUART J. HEPBURN  
13 and BETTY F. HEPBURN. The acts and omissions of Endsley and LEFEVRE  
14 were within the course and scope of his agency of VAUTRAIN and at all  
15 times relevant herein, Endsley and LEFEVRE were acting under the  
16 supervision, direction and control of and with the express and implied  
17 authorization of the shareholders, officers, compliance officers,  
18 directors, registered principals and other management level officials  
19 of VAUTRAIN. Plaintiffs are informed and believe that LYNN VAUTRAIN  
20 is an owner and/or registered principal and/or control person and/or  
21 and alter-ego of VAUTRAIN and said Defendant encouraged and/or authorized  
22 and/or assisted and/or participated in and ratified the wrongful conduct  
23 alleged herein and are directly and secondarily liable for the acts  
24 and omissions of VAUTRAIN and its agents, representatives, and employees  
25 as alleged herein.

26 39. In the case of every Plaintiff, the stockbrokers/brokerage  
27 houses/financial advisors:  
28

1 a. held themselves out as experts in financial matters who  
2 stood ready to provide expertise financial advice on safe investments,

3 b. solicited the purchase of the Towers Notes in the context  
4 of a brokerage house/investor or financial advisor/advisee relationship,  
5 and,

6 c. caused such Plaintiff to reasonably place their complete  
7 trust and reliance upon the skill, advice and expertise of the  
8 stockbroker/brokerage house/financial advisor so as to create a  
9 confidential, fiduciary and trustee relationship.

10 40. Plaintiffs contend that a fiduciary and confidential  
11 relationship existed between them and the stockbroker/brokerage  
12 house/financial advisor herein. In the context of such a confidential  
13 and fiduciary relationship, the basis of liability in this case is that  
14 the stockbroker/brokerage house/financial advisor and the Defendants  
15 had a duty to:

16 a. conduct reasonable due diligence into background of the  
17 Towers enterprise and its principals and the safety of the Towers Notes  
18 and reveal the results of such due diligence to potential investors,

19 b. discover and disclose reasonably obtainable adverse public  
20 information regarding the Towers Notes or the Towers enterprise and  
21 its principals,

22 c. to undertake reasonable action to ascertain the truth  
23 or falsity of the highly positive representations made by the Towers  
24 promoters,

25 d. to ascertain whether or not the sale of the Towers Notes  
26 violated the registration requirements of the State and Federal  
27 governments,

28

1 e. to ascertain whether or not a particular investor met  
2 the minimum net worth requirements for the purchase of the Towers Notes,

3 f. to ascertain whether or not the Towers Notes were suitable  
4 for a particular investor and refrain from recommending and selling  
5 the same to unsuitable investors, and

6 g. to refrain from selling the Towers Notes in violation  
7 of State and Federal registration requirements.

8 41. Plaintiffs contend that for the many reasons set forth in  
9 greater detail below, the Defendants breached these duties by  
10 recommending and selling, or permitting or causing the recommendation  
11 and sale, of Towers Notes to Plaintiffs, giving rise to the right to  
12 relief under the various legal theories alleged herein.

13 AN OUTLINE OF THE TOWERS PONZI SCHEME

14 42. Until it went bankrupt in March of 1993, Towers Financial  
15 Corporation ("Towers") was a Delaware corporation headquartered in New  
16 York, New York which operated through subsidiaries such as Towers Credit  
17 Corporation, Towers Collection Services, Inc., Towers Healthcare  
18 Receivables Funding Corporation, Towers Healthcare Receivables Funding  
19 Corporation II, Towers Healthcare Receivables Funding Corporation III,  
20 Towers Healthcare Receivables Funding Corporation IV, and Towers  
21 Healthcare Receivables Funding Corporation V. Towers also conducted  
22 its own operations, including the purchase and collection of certain  
23 accounts receivable.

24 43. Towers Credit Corporation ("Towers Credit") was a Towers  
25 subsidiary whose business was the purchase of commercial accounts  
26 receivable and collection of same for its own account.

1           44. Towers Collection Services, Inc. ("Towers Collection") is  
2 a Towers subsidiary whose business was the collection of past-due  
3 accounts receivable for third parties on a contingency basis.

4           45. Towers Healthcare Receivables Funding Corporation  
5 ("THRFC I"), Towers Healthcare Receivables Funding Corporation II ("THRFC  
6 II"), Towers Healthcare Receivables Funding Corporation III ("THRFC  
7 III"), Towers Healthcare Receivables Funding Corporation IV ("THRFC  
8 IV"), and Towers Healthcare Receivables Funding Corporation V ("THRFC  
9 V") (collectively, the "Healthcare Subsidiaries") are five Towers  
10 subsidiaries, incorporated in Delaware, whose business was the factoring  
11 of healthcare accounts receivable and which offered and sold five issues  
12 of bonds to institutional investors in the total amount of approximately  
13 \$196 million.

14           46. In March 1993, Towers and its subsidiaries, including Towers  
15 Credit, Towers Collection, and the Healthcare Subsidiaries, filed for  
16 bankruptcy and are currently operating under the protection of chapter  
17 11 of the Bankruptcy Code.

18           47. Steven Hoffenberg a/k/a Barry Cohen, a resident of New York,  
19 New York, was Chief Executive Officer, President, and Chairman of the  
20 Board of Directors of Towers and President of Towers Credit and the  
21 Towers subsidiary TFC Funding Corporation.

22           48. Professional Business Brokers, Inc. and the Hoffenberg Family  
23 Trust are entities through which Hoffenberg controlled the majority  
24 of Towers' common stock. Hoffenberg is the president of Professional  
25 Business Brokers, Inc., which owns over 70 percent of Towers' outstanding  
26 stock. Professional Business Brokers, Inc. is owned by the Hoffenberg  
27 Family Trust, of which Hoffenberg is the trustee. a) The Towers ponzi  
28 scheme was designed to and did (a) deceive the investing public,

1 including the Plaintiffs regarding Towers and Towers' business,  
2 management, financial condition, and future prospects; (b) allow  
3 worthless securities to be sold during the period of the fraudulent  
4 scheme of Defendants; (c) bring Towers' securities onto the market which  
5 were not entitled to be marketed; and (d) cause Plaintiffs to purchase  
6 the Notes.

7  
8 49. Towers began offering Notes to the public in or about 1986.  
9 These sales were not registered as required under state blue sky laws  
10 or other registration laws. Moreover, the offering materials employed  
11 to effect the sales were grossly misleading. These initial Note sales  
12 attracted the attention and prompted serious concerns on the part of  
13 the Securities and Exchange Commission ("SEC") and various state  
14 securities officials.

15 50. On August 4, 1988, the SEC sued Hoffenberg for offering and  
16 selling unregistered securities. A Final Consent Judgment of Permanent  
17 Injunction and Order (the "SEC Injunction") was entered on November  
18 16, 1988 as to Hoffenberg prohibiting him from further violating section  
19 5 of the Securities Act.

20 The Offer And Sale Of Unregistered Securities.

21 51. Beginning in about February 1989, Hoffenberg and various  
22 brokerage houses, including the Defendants herein, proceeded to sell  
23 over \$245 million in Notes in violation of the blue sky laws and in  
24 direct violation of the SEC Injunction.

25 52. The Notes were offered and sold to United States residents  
26 pursuant to five offering memoranda dated February 15, 1989, February  
27 20, 1990, October 1, 1990, October 15, 1991, and March 23, 1992,  
28 respectively (the "Domestic Memoranda") and to non-United States

1 residents pursuant to a so-called Explanatory Memorandum (collectively,  
2 the "Offering Memoranda").

3  
4 53. The Notes offered to United States residents had maturity  
5 terms of one or two years and paid interest at annual rates ranging  
6 from 12 to 14 percent for one-year Notes and from 14 to 16 percent for  
7 two-year Notes. Although these Notes were purportedly for sale in units  
8 of \$50,000 or \$100,000, Towers routinely sold them in fractions of such  
9 units.

10 54. The Notes offered to non-United States residents had maturity  
11 terms ranging from one to seven years and paid interest at annual rates  
12 ranging from 14 to 16 1/2 percent. Although these Notes were purportedly  
13 for sale in units of \$100,000, Towers routinely sold them in fractions  
14 of such units.

15 55. The Notes were offered and sold to residents of at least 40  
16 states. Many of these investors are unsophisticated and live on fixed  
17 incomes. The offer and sale of the Notes was effected through a general  
18 solicitation. Towers sold the Notes in violation of blue sky  
19 registration requirements.

20 Fraud In The Offer And Sale of Securities.

21 56. The Notes were sold through fraudulent means. In soliciting  
22 investments in the Notes, Steven Hoffenberg, Professional Business  
23 Brokers, Inc., the Hoffenberg Family Trust, and the Financial Advisor  
24 and Broker-Dealer Defendants disseminated the offering Memoranda, Towers  
25 "annual reports," and a variety of uniform and standardized written  
26 offering materials for the purpose of inducing investors to believe  
27 the Notes were sound, legitimate investment vehicles and Towers was  
28 a prosperous, dynamic and growing concern. In fact, Towers was a  
fraudulent enterprise which sustained itself through the infusion of

1 cash raised through the fraudulent solicitation of investments from  
2 Noteholders and others.

3 57. Towers' business, the collection and financing of accounts  
4 receivable, was secondary in importance to Towers' primary objective,  
5 which was to provide a vehicle for the personal enrichment of Hoffenberg  
6 and other participants in the fraud, at any cost. To sustain a steady  
7 flow of new cash, Towers contrived to create through various means an  
8 image of Towers and its investments which was entirely false. Throughout  
9 the period of the fraudulent scheme of Defendants, Towers lost  
10 substantial sums through mismanagement, the diversion of funds to the  
11 personal benefit of Hoffenberg and others, and the generally unprofitable  
12 character of Towers' business activity.

13 58. Towers made payments to investors which were denominated  
14 "interest" payments, when in fact those payments merely represented  
15 the return to investors of a portion of their principal or improperly  
16 diverted proceeds of offerings of other Towers securities, specifically,  
17 "Bonds" sold by Towers.

18 59. To mislead the public and law enforcement and regulatory  
19 agencies with jurisdiction over financial matters, Steven Hoffenberg,  
20 Professional Business Brokers, Inc., and the Hoffenberg Family Trust  
21 committed perjury, falsified business records, distributed sham financial  
22 statements, misled state and federal officials, and otherwise engaged  
23 in a pattern of criminal conduct. Hoffenberg was the subject of grand  
24 jury indictments in the Northern District of Illinois and the Southern  
25 District of New York in April 1994, charging a variety of crimes,  
26 including criminal securities fraud in connection with the sale of the  
27 Notes.  
28



1           60. Hoffenberg was Chief Executive Officer, President, and Chairman  
2 of the Board of Directors of Towers and President of Towers Collection  
3 and TFC Funding Corporation. Hoffenberg directly owns 10 percent of  
4 Towers' common stock and additionally owns or controls 61.4 percent  
5 of the stock through Professional Business Brokers, Inc., a corporation  
6 owned by the Hoffenberg Family Trust, of which he is the trustee.  
7 Through Professional Business Brokers, Inc., the Hoffenberg Family Trust  
8 received a percentage of Towers' gross revenues ostensibly pursuant  
9 to an agreement stemming from the 1986 sale of TFC Funding Corporation  
10 and Towers Credit to Towers.

11           61. Hoffenberg founded Towers and was intimately involved in its  
12 daily operations. Hoffenberg participated in the drafting of the  
13 offering materials, including the Offering Memoranda and the Annual  
14 Reports, and signed messages to investors which were prominently featured  
15 in the Annual Reports.

16           62. Hoffenberg participated in the negotiation of contracts for  
17 Towers, and in negotiations and communications with state and federal  
18 regulatory authorities. Hoffenberg exercised control over Towers' bank  
19 accounts, including the escrow accounts established with the proceeds  
20 of the Note offerings and the special interest-bearing, lock-box accounts  
21 established with the proceeds of the foreign Note offerings. He further  
22 participated in the preparation of Towers' financial statements,  
23 including determination of the amount of "excess profits" appropriated  
24 by Towers from the offering proceeds. Hoffenberg directed and had  
25 complete knowledge of the scheme to defraud investors.

26           The Offering Memoranda

27           63. The Offering Memoranda represented that Towers would use the  
28 funds it raised from Note investors to buy certain types of current

1 accounts receivable or loan portfolios for collection by Towers for  
2 its own account. The Offering Memoranda stated that Towers typically  
3 would acquire accounts receivable at a price of up to 95 percent of  
4 their face value, earn a minimum 5 percent "factoring fee" for each  
5 receivable collected, and reinvest the proceeds of collection in  
6 additional receivables. The Offering Memoranda further stated that  
7 Towers expected to compound its "factoring fee" up to six times per  
8 year through this purchase and collection of receivables and reinvestment  
9 of the collection proceeds in more receivables.

10  
11 64. In fact, Towers bought few, if any, current accounts  
12 receivables with the Note proceeds, buying instead past due, largely  
13 uncollectible accounts receivable or loan portfolios at prices  
14 substantially lower than 95 percent of the face value of the receivables  
15 or portfolios.

16 65. Instead of using Note investors' funds to purchase accounts  
17 receivable, Towers used the money to pay, among other things, interest  
18 on the Notes, Towers' expenses, and professional fees. In addition,  
19 because the accounts receivable which Towers owned or had contracted  
20 to collect on behalf of others were of such poor quality, Towers' cash  
21 flow was insufficient to meet its needs and obligations. Thus, Towers  
22 resorted to such measures as retaining collection proceeds instead of  
23 remitting them to its clients and diverting millions of dollars from  
24 the Healthcare Subsidiaries to itself.

25 66. In addition, the Offering Memoranda stated that the Notes  
26 would be fully collateralized by accounts receivable purchased with  
27 the Note proceeds and having a total face value substantially in excess  
28 of the value of the Notes sold. In reality, the Notes were severely

1 undercollateralized, if collateralized at all, because of the low face  
2 amount and quality of accounts receivable purchased by Towers.

3  
4 67. The Domestic Memoranda, pursuant to which Notes were sold  
5 to United States residents, stated that Note proceeds would be deposited  
6 in "special escrow" accounts at Chase Manhattan Bank and would remain  
7 in such accounts to the extent the funds were not used to purchase  
8 accounts receivable or pay certain specified expenses. The Explanatory  
9 Memorandum, pursuant to which Notes were sold to non-United States  
10 residents, stated that Towers would keep Note proceeds in special  
11 interest-bearing accounts and that proceeds from the collection of  
12 accounts receivable purchased with Note proceeds would be deposited  
13 under a "lock box" system which Towers had arranged with Chase Manhattan  
14 Bank.

15 68. As of June 30, 1991, however, although Towers had purchased  
16 few accounts receivable with the \$124 million it had raised from selling  
17 Notes, Towers' bank accounts at Chase Manhattan Bank contained at most  
18 \$5 million. As of June 30, 1992, when Towers was reporting Notes  
19 outstanding in the total amount of \$198 million, its reported cash and  
20 cash equivalents amounted to only \$32 million.

21 69. The Offering Memoranda described the terms purportedly  
22 governing Towers' ability to withdraw funds from the "special" accounts  
23 at Chase Manhattan Bank to use for its own purposes. According to the  
24 Offering Memoranda, "Excess Profit Amounts" could be withdrawn and used  
25 for any corporate purpose only if the face value of accounts receivable  
26 purchased with Note proceeds combined with the proceeds from the  
27 collection of these receivables exceeded the value of the Notes sold.  
28 Although the former never exceeded the latter, Hoffenberg routinely  
caused the "special" bank accounts to be emptied of Note proceeds.

1 Despite being designated a "Special Escrow Account" in the Offering  
2 Memoranda, the accounts maintained by Towers with Chase Manhattan Bank  
3 were simple checking accounts to which Towers had unfettered access.

4 The Annual Reports.

5 70. The promotional materials distributed to Plaintiffs included  
6 Towers' Annual Reports for fiscal years 1988, 1989, 1990 and 1991.  
7 Among other things, these Annual Reports contained false and misleading  
8 financial statements which falsely reported that Towers was a financially  
9 successful and growing company, when, in fact, each year it was incurring  
10 very substantial and increasing losses.

11 71. For fiscal year 1988, Towers reported net income of \$1.4  
12 million, when it had actually incurred a loss of approximately \$29  
13 million; total assets of \$76 million, when it actually had assets of  
14 no greater than \$48 million; and shareholders' equity of \$6.5 million  
15 (restated in 1990 as approximately \$5.7 million), when it actually had  
16 a deficit of approximately \$24.9 million.

17 72. For fiscal year 1989, Towers reported net income of \$3.5  
18 million, when it actually had incurred a loss of over \$28 million; total  
19 assets of \$122 million, when it actually had assets of no greater than  
20 \$21 million; and shareholders' equity of \$10.3 million (restated in  
21 1990 as approximately \$9.4 million), when it actually had a deficit  
22 of approximately \$53 million.

23 73. For fiscal year 1990, Towers reported net income of \$3.9  
24 million, when it had actually incurred a loss of approximately \$49  
25 million; total assets of \$195 million, when it actually had assets of  
26 no greater than \$29 million or less; and shareholders' equity of \$13.4  
27 million, when it actually had a deficit of over \$101 million.

1           74. For fiscal year 1991, Towers reported net income of \$4.3  
2 million, when it actually had incurred a loss of over \$47 million; total  
3 assets of \$513 million, when it actually had assets of no greater than  
4 \$250 million; and shareholders' equity of \$20.1 million, when it actually  
5 had a deficit of over \$130 million.

6           75. For fiscal year 1992, Towers reported net income of \$5.4  
7 million, when it actually had incurred a loss of over \$95 million; and  
8 shareholders' equity of \$25.5 million, when it had a deficit of over  
9 \$242 million. Thus, by fiscal year 1992, Towers was overstating its  
10 shareholders' equity by over \$267 million, but the actual inaccuracy  
11 was even greater because this figure does not include an allowance for  
12 doubtful accounts.

13           Towers Accounting Practices.

14           76. Among the bases for these false and misleading financial  
15 statements were figures generated by improper accounting procedures  
16 such as the following:

17           1. Southwestern Bell Portfolio.

18           77. On or around June 30, 1988, the Towers subsidiary Towers  
19 Collection paid less than \$300,000 for a portfolio of past-due accounts  
20 receivable from Southwestern Bell Yellow Pages, Inc. ("Southwestern  
21 Bell") having a face value of approximately \$28 million (the  
22 "Southwestern Bell portfolio"). Before selling the portfolio to Towers  
23 Collection, Southwestern Bell had charged off all of the balances as  
24 worthless after private collection agencies, including Towers, had failed  
25 to collect on them. To date, Towers Collection has collected less than  
26 \$1 million on the Southwestern Bell portfolio.

27           78. For fiscal year 1988, Towers improperly recorded income of  
28 \$19 million from collecting on the Southwestern Bell portfolio, resulting

1 in the overstatement of Towers' income for fiscal year 1988 by that  
2 amount. Towers also improperly recorded the Southwestern Bell portfolio  
3 as valued at \$28 million instead of valuing the portfolio at its  
4 acquisition cost, causing an overstatement of Towers' fiscal year 1988  
5 accounts receivable by \$28 million (less the cost of the portfolio).  
6

7 2. Federal Deposit Insurance Company

8 79. Towers also inflated the value of its accounts receivable  
9 and its income from collecting such receivables by recording loan  
10 portfolios originated from banks liquidated by the Federal Deposit  
11 Insurance Company ("FDIC loan portfolios") at values far above their  
12 acquisition costs and improperly recognizing income from collecting  
13 on the FDIC loan portfolios.

14 80. In fiscal year 1990, Towers paid less than \$500,000 for various  
15 FDIC loan portfolios having a face value of over \$50 million. These  
16 portfolios contained nonperforming, distressed loans. For fiscal year  
17 1990, Towers improperly recorded the portfolios as accounts receivable  
18 having a value of \$24 million and recorded income of \$24 million from  
19 the portfolios. In fiscal year 1990, however, Towers had received  
20 virtually no cash proceeds from these FDIC loan portfolios.

21 81. In fiscal year 1991, Towers paid approximately \$30,000 for  
22 additional distressed FDIC loan portfolios having a face value of \$6  
23 million. Towers improperly recorded the portfolios as accounts  
24 receivable having a value of \$6 million and recorded income of \$6 million  
25 from the portfolios.

26 82. As a result of Towers' improper recording of FDIC loan  
27 portfolios in fiscal years 1990 and 1991, accounts receivable for fiscal  
28 year 1991 were overstated by \$13 million. In fiscal year 1991, Towers  
had collected less than \$1 million on the FDIC loan portfolios.



1           83. Towers falsely stated in its 1991 Annual Report: "Income on  
2 RTC/FDIC loans is recognized as they are collected." In fact, Towers  
3 recorded income in much larger amounts than Towers ever collected in  
4 fiscal year 1990 or 1991.

5           3. Bank Of America Portfolio.

6           84. In or around January 1991, Towers paid less than \$200,000  
7 for a portfolio of credit-card balances from Bank of America having  
8 a face value of approximately \$16 million (the "Bank of America  
9 portfolio"). Before selling the portfolio to Towers, Bank of America  
10 had charged off all of the balances as worthless after other collection  
11 agencies had failed to collect on them. In fiscal year 1992, Towers  
12 collected little or no amounts on the Bank of America portfolio.

13           85. For fiscal year 1991, Towers improperly recorded income of  
14 \$4 million from the Bank of America portfolio, causing Towers' reported  
15 income for fiscal year 1991 to be overstated by that amount. Towers  
16 also improperly recorded the Bank of America portfolio as accounts  
17 receivable valued at \$4 million instead of valuing the portfolio at  
18 its acquisition cost, causing an overstatement of Towers' fiscal year  
19 1991 accounts receivable by \$4 million (less the cost of the portfolio).

20           4. Investment In United Diversified.

21           86. In its financial statements for fiscal year 1989 through fiscal  
22 year 1991, Towers further inflated its assets by improperly recording  
23 Towers' investment in United Diversified Corporation ("UDC"), which  
24 conducted business through its subsidiaries, Associated Life Insurance  
25 Company ("Associated Life") and United Fire Insurance Company ("United  
26 Fire").

1           87. Towers acquired a controlling interest in UDC in 1987 for  
2 \$3 million, and Hoffenberg became Chairman of the Boards of Directors  
3 of UDC, United Fire, and Associated Life.

4           88. Towers improperly recorded the purchase cost of \$3 million  
5 as an investment on its financial statements from fiscal year 1989  
6 through fiscal year 1991. By fiscal year 1989, however, the UDC  
7 investment had become seriously impaired and by no later than fiscal  
8 year 1991 posed a threat of liability exceeding the purchase cost.

9           89. In July 1968, the Illinois Director of Insurance (the  
10 "Insurance Director") obtained an order placing UDC, United Fire, and  
11 Associated Life in conservation. On February 14, 1989, Hoffenberg agreed  
12 in a signed stipulation to the entry of an order liquidating Associated  
13 Life and United Fire. The liquidation order was based on Hoffenberg's  
14 agreement that both companies were insolvent. On March 3, 1989, when  
15 the liquidation order was entered, Hoffenberg lost all control of the  
16 companies, and Towers lost any expectation of a return on the investment.

17           90. On or about June 27, 1991, Hoffenberg and others were charged  
18 by the Insurance Director with having used the insurance companies as  
19 an instrumentality of Towers, and, among other things, with having  
20 transferred investments and cash of the companies into various  
21 Hoffenberg-controlled brokerage accounts. These transfers began in  
22 November 1987 and continued through July 1988. In the civil action  
23 Schacht v. Hoffenberg, No. 91-C-4024 (N.D. Ill.), the Insurance Director  
24 alleged that Defendants had caused UDC, Associated Life, and United  
25 Fire to suffer damages in excess of \$4 million, become insolvent, and  
26 be placed in conservation and/or liquidation. The complaint sought,  
27 among other things, treble damages under RICO. Towers settled this  
28

1 and related actions in 1992 upon Towers' agreement to pay \$3.5 million  
2 as part of the settlement.

3 91. It was materially false and misleading for Towers to continue  
4 to record its investment in the insurance companies at cost in its  
5 financial statements for fiscal years 1989, 1990, and 1991 without any  
6 reserve to reflect both the impairment of the investment or the  
7 contingency of Towers' potential liability. Towers' assets were  
8 overstated by at least \$3 million in each of those years as a result  
9 of Towers' failure to record an appropriate allowance for uncollectible  
10 accounts.

11 92. Furthermore, Towers did not disclose to potential or actual  
12 Note investors the liquidation and conservation proceedings against  
13 UDC, Associated Life, and United Fire or the filing of the action Schacht  
14 v. Hoffenberg against Hoffenberg.

15 5. Collection Receivables

16 93. The Towers subsidiary Towers Collection collected past-due  
17 accounts receivable for third parties ("collection receivables") for  
18 a fee contingent on collection. Towers Collection paid no money for  
19 collection receivables and was obligated to remit all collection proceeds  
20 to its clients, except for a certain percentage of the proceeds which  
21 Towers Collection retained as its fee.

22 94. Towers Collection improperly recorded fee income from  
23 collection receivables before performing any significant collection  
24 activities and collecting any proceeds. Because of this improper  
25 recognition of fee income, Towers' reported fee income for fiscal year  
26 1989, \$36 million, was overstated by at least \$10 million. For fiscal  
27 year 1990, Towers reported total fee income of \$56 million, of which  
28 \$22 million was fee income improperly recognized by Towers Collection

1 in the above manner. For fiscal year 1991, Towers reported total fee  
2 income of \$97 million, of which \$56 million was fee income improperly  
3 recognized by Towers Collection.

4 95. Towers' Annual Reports for fiscal years 1988, 1989, and  
5 1990 state that Towers recognized its fees as 30 percent of the amount  
6 expected to be collected and that it expected to collect 30 percent  
7 of all collection receivables. This was the basis for Towers' accounting  
8 rule known as the "30/30 Rule."

9 96. In no year, however, had Towers collected even close to 30  
10 percent of all of its collection receivables. As of June 30, 1993,  
11 for example, Towers had collected only 22 percent of the accounts  
12 receivable assigned to Towers for collection in 1988; only 18 percent  
13 of the accounts receivable assigned in 1989; 13 percent of the  
14 receivables assigned in 1990; 14 percent of the receivables assigned  
15 in 1991; and 11 percent of the receivables assigned in 1992.

16 97. Towers also improperly recorded the collection receivables  
17 as Towers' own assets. The collection receivables were not owned by  
18 Towers Collection, however, but by Towers Collection's clients, who  
19 had assigned them to Towers Collection for collection on their behalf.  
20 Not only could Towers Collection not properly record the receivables  
21 as assets, but also Towers Collection recorded them at amounts  
22 substantially in excess of their value, resulting in an overstatement  
23 of Towers' assets of over \$200 million by the end of fiscal year 1992.

24 98. For fiscal year 1989, Towers reported accounts receivable  
25 of \$112 million, of which approximately \$101 million consisted of  
26 collection receivables improperly recorded as owned by Towers. For  
27 fiscal year 1990, Towers reported accounts receivable of \$177 million  
28 of which approximately \$142 million consisted of improperly recorded

1 collection receivables. For fiscal year 1991, Towers reported accounts  
2 receivable of \$437 million, of which \$246 million consisted of improperly  
3 recorded collection receivables.

4 CULPABILITY OF THE DEFENDANTS

5 99. The Towers fraud could not have been achieved as against the  
6 Plaintiffs herein without the culpable participation of the Defendants.  
7 They provided the essential link to Plaintiffs which enabled Towers  
8 to consummate its unregistered offering and sale of securities, as set  
9 forth above.

10 100. Towers purportedly sold the Notes pursuant to a purported  
11 exemption from registration under purported exemptions to state blue  
12 sky laws. However, the offering of the Notes was in fact, not exempted  
13 under state blue sky laws. The Defendants contributed to the offering's  
14 noncompliance with blue sky laws, and thus the selling of unregistered  
15 securities by, inter alia, the following acts and commissions:

16 (a) Distributing or causing the distribution of, the offering  
17 memoranda received by them from Towers to Plaintiffs.

18 (b) Offering and selling, or causing the offer and sale of,  
19 the Notes to Plaintiffs through a "cold-call" telemarketing campaign;

20 (c) Failing to appropriately screen Plaintiffs to see if  
21 they were proper investors;

22 (d) Failing to determine whether or not Plaintiffs had prior  
23 relationships with Towers;

24 (f) Failing to conduct adequate due diligence on the Towers  
25 Notes;

26 (g) Falsely representing, or causing the false representation,  
27 that the Towers Notes were insured and highly rated by Duff & Phelps  
28 Credit Rating Company. In fact, the Towers Notes were never rated by

1 Duff & Phelps. Duff & Phelps only rated bonds issued by a Towers  
2 affiliate and the bond rating had no bearing whatsoever on the safety  
3 of the Towers Notes;

4 (h) Falsely representing the Towers Notes as low risk, when  
5 in fact, the investment was high risk;

6 (i) Failing to disclose that the Towers Notes were sold in  
7 violation of State and Federal registration laws; and

8 (j) Failing to disclose that Hoffenberg and Towers had been  
9 the subject of a cease and desist order by the SEC in connection with  
10 the illegal sale of the Towers Notes.

11 (i) Failing to disclose that the SEC had sent out letters  
12 to the Defendants in the fall of 1991 informing the Defendants that  
13 it was investigating the activities of Towers.

14 (k) Failing to disclose that Towers was involved in litigation  
15 arising out of its acquisition of the common stock of United Diversified  
16 Corporation, UDC, (an insurance holding company). Towers alleged that  
17 it was defrauded and damaged as a result of material misrepresentations  
18 by the seller. The Illinois Insurance Director had placed UDC into  
19 a conservatorship and petitioned for liquidation of UDC. This followed  
20 the liquidation petitions of two of UDC's subsidiaries. The Director  
21 also filed a petition to compel Hoffenberg to turn over assets allegedly  
22 belonging to UDC and the insurance companies totaling \$2.9 million.

23 (l) Failing to disclose that in fiscal 1990, Towers reserved  
24 approximately \$3 million for unpaid taxes and penalties from fiscal  
25 1989. During fiscal 1989, Towers paid no federal income taxes for that  
26 year.



1 (m) Failing to disclose that Ben Barnes, one of the outside  
2 directors of Towers, filed a voluntary petition with the U.S. Bankruptcy  
3 Court in December 1987, under Chapter 7 of the U.S. Bankruptcy Code.

4 (n) Failing to disclose that the Louisiana Commissioner of  
5 Securities was conducting an investigation into whether Towers securities  
6 were sold in violation of the Louisiana Securities Laws and Regulations.

7 (o) Failing to disclose that Towers had been the subject  
8 of a cease and desist order by the State of California concerning the  
9 sale of unregistered securities within the state.

10 (p) Selling to Plaintiffs when Plaintiffs were not accredited  
11 investors or did not have sufficient knowledge and experience to  
12 constitute proper non-accredited investors under Regulation D and when  
13 over 35 non-accredited investors had already been sold Towers Notes  
14 as part of the same offering in violation of Regulation D.

15 (q) Such other facts as shall be shown according to proof.

16 101. Because the offering of the Notes was a public offering and  
17 because the Defendants received substantial commissions from Towers  
18 based on the sale of the Notes, Defendants were underwriters in  
19 connection with the offering of the Notes.

20 102. The offering of the Notes also failed to comply with California  
21 blue sky laws because it was not a limited offering and was sold to  
22 more than 35 non-accredited investors (investors with net assets of  
23 less than \$1 million at the time of their purchase or annual income  
24 of less than \$200,000 in each of the two years prior to their purchase  
25 or combined income with their spouse of less than \$300,000 in each of  
26 the two years prior to their purchase or not-for-profit organizations,  
27 defined benefit plans and trust with assets of less than \$5 million  
28

1 at the time of their investment). In furtherance of the noncompliance  
2 with such blue sky laws, the Financial Advisors:

3 (a) Sold to non-accredited investors without taking actions  
4 to determine the total number of non-accredited investors; and

5 (b) Caused the Notes to be offered and sold by means of general  
6 solicitation.

7  
8 103. The Defendants were under a duty, at all relevant times, to  
9 investigate the propriety of the foregoing claimed exemptions from  
10 registration. Because of, inter alia, the massive solicitation, the  
11 size of the offering, the large number of Financial Advisors involved  
12 and their presumed knowledge of the securities laws, the Defendants  
13 knew, or were reckless in not knowing that the offering did not comply  
14 with the claimed exemptions or was not likely to be in compliance  
15 therewith.

16 104. The Defendants were under a duty of due diligence to  
17 investigate the bona fides of the Towers investment. In conducting  
18 any reasonable due diligence investigation, the Financial Advisors  
19 Defendants knew or should have known, inter alia:

20 (a) that, in fact, Towers had an extensive history of fraud,  
21 securities law violations, consumer fraud allegations, persistent  
22 allegations of past diversions of funds from affiliates and subsidiaries,  
23 unpaid court judgments, prior bankruptcies and other conduct inconsistent  
24 with a creditworthy company, and that state and federal investigations  
25 and prosecutions were then underway involving Hoffenberg, Towers, and/or  
26 its affiliates;

27 (b) that Hoffenberg had previously caused at least four  
28 companies he had led to seek bankruptcy protection and that Moody's  
Investors, Service had declined on this basis to issue a rating for

1 one of the issues of securities when approached to do so by Towers in  
2 1991;

3 (c) that Towers as servicer had failed to provide detailed  
4 financial reports describing the receivables on a monthly basis as would  
5 otherwise have been done if the operation was legitimate;

6 (d) that Towers was improperly purchasing from providers  
7 receivables which served as collateral for the bonds but were not owned  
8 by the providers free from any prior sale, lien, encumbrance or security  
9 interest, and, thus, not of adequate strength; and

10 (e) that in fact Towers was insolvent and that Towers had  
11 abrogated the terms of the indenture agreement with the bond trustee,  
12 Shawmut National Bank, a result of which was the genuine and material  
13 risk of default on the bonds.

14 (f) that Towers was being investigated by the SEC for  
15 violations of the federal securities laws as of the fall of 1991.

16 (g) that Hoffenberg had a long history of improper and or  
17 illegal conduct.

18 105. The Defendants should not have recommended the Towers Notes  
19 to Plaintiffs as low risk investments in light of such actual or imputed  
20 knowledge.

21 106. Regardless of the conduct engaged in, or the degree of  
22 knowledge attributable to the Financial Advisors, the Defendants are  
23 strictly liable to the Plaintiffs under federal and state registration  
24 laws, because of the sale of unregistered securities.

25 107. As set forth above, because the offering of the Notes was  
26 in reality a public offering, the Defendants were statutory underwriters  
27 and had all of the legal duties and responsibilities of underwriters  
28 with respect to an offering of securities. Prior to offering the Notes

1 for sale and soliciting their customers to purchase the Notes, the  
2 Defendants had a duty to conduct a due diligence investigation with  
3 respect to the Notes and the offering.

4 108. Adequate investigation by any Broker-Dealer would have revealed  
5 that the offering memoranda and Towers' financial statements contained  
6 the misrepresentations and omissions of material fact alleged herein.

7 109. The Defendants solicited sales of the Notes by means of the  
8 false and misleading offering memoranda and financial statements and  
9 by means of other written sales materials (including sales and marketing  
10 brochures and form prospecting letters) and oral statements to  
11 prospective purchasers.

12 110. The written and oral sales representations made by the  
13 Defendants contained the same misrepresentations and omissions as the  
14 offering memoranda, and these written and oral representations were  
15 in all material respects consistent with the offering memoranda.  
16 Further, any oral statements made by the Defendants were part of a  
17 uniform and standardized sales presentation, which was based upon written  
18 sales and marketing brochures, including sales materials which were  
19 distributed internally to the Defendants only, for use in making oral  
20 representations to prospective purchasers.

21 111. The Defendants, in soliciting purchases of the Notes, were  
22 motivated by a desire to serve their own financial interests. The  
23 Defendants were promised substantial commissions on sales of the Notes  
24 and therefore, had every incentive to maximize the sales volume.

25 112. As a result of the foregoing, the Defendants have breached  
26 their duties to Plaintiffs, inducing Plaintiffs to purchase the Notes,  
27 to their detriment, and are liable therefor.  
28

1           113. In making their investment decisions, Plaintiffs relied on  
2 the express and implied representations by the registered representatives  
3 or agents of the brokerage houses and financial advisors that the Towers  
4 Notes were bona fide, low risk securities which were legally being sold  
5 under the applicable state and federal securities laws, and Plaintiffs  
6 relied upon the reputations of the Defendants. As a direct and proximate  
7 result thereof, Plaintiffs were damaged. Had Plaintiffs known of the  
8 material adverse information not disclosed by the Defendants, they would  
9 not have purchased the Notes.

10           114. Plaintiffs each purchased Towers Notes upon the advice and  
11 recommendation of the registered representatives and agents of the  
12 brokerage house and financial advisors Defendants sued herein. Prior  
13 to the purchase of the Notes, each Plaintiff informed the Defendants  
14 with whom they were dealing that in substance, such Plaintiff did not  
15 want any risky or speculative investments and was only interested in  
16 conservative investments. The Defendants impliedly or expressly  
17 represented to such Plaintiff that they, and each of them, possessed  
18 expert education, skill, experience, and knowledge necessary to provide  
19 expert and competent advice, counselling, guidance and ancillary services  
20 in connection with personal financial planning and the provision of  
21 services in connection with the analysis, acquisition, and management  
22 of investment products suitable for Plaintiff's needs. Each such  
23 Defendants also impliedly or expressly represented to the client  
24 Plaintiff that thorough advance due diligence research and investigation  
25 into Towers Financial and Hoffenberg had been conducted by the Financial  
26 Advisor and Broker-Dealer Defendant to establish conclusively that the  
27 Notes were a sound, prudent, low risk investment. Each Plaintiff placed  
28 trust and confidence in the particular Financial Advisor and Broker-

1 Dealer Defendant as an expert financial planner and relied upon the  
2 Defendants' due diligence, research and investigation in Towers  
3 Financial, Steven Hoffenberg and the Notes and followed the  
4 recommendation of the Financial Advisor and Broker-Dealer to purchase  
5 the Notes.

6 115. In actuality, the Towers Notes were not low or no risk, but  
7 were illegally sold sham investments which were part of a Ponzi scheme.  
8 On or about March 29, 1993, Towers Financial filed bankruptcy.  
9 Plaintiffs gradually learned of the true facts regarding Towers at  
10 various times as these facts gradually were disseminated through the  
11 news media and other sources of information and the actual date of  
12 discovery is unique for each Plaintiff, but in all cases, was after  
13 the date of the bankruptcy due to the gradual nature in which information  
14 spread regarding Towers true nature. Due to the fiduciary relationship  
15 that existed between Towers and the Defendants on the one hand, and  
16 Plaintiffs on the other hand, Plaintiffs were entitled to rely upon  
17 the truth and honesty of Towers and the Defendants and in so doing,  
18 Plaintiffs reasonably could not have discovered the ponzi scheme sooner.

19 116. Plaintiffs would not have purchased the Towers Note investments  
20 if Plaintiffs had known that the Notes were sold illegally as part of  
21 a large scale Ponzi scheme or that the Notes were not low risk, bona  
22 fide conservative investments. Unbeknownst to Plaintiffs, in fact,  
23 each of these investments presented a very high degree of risk of loss  
24 of principal and high fees and commissions and other and further features  
25 which rendered the investments highly unsuitable for Plaintiffs and  
26 in conflict with the express representations of the Defendants and with  
27 the express goals stated by Plaintiffs. The Defendants, and each of  
28 them, knew that the investments were ill-advised for Plaintiffs. Despite



1 their knowledge, Defendants, and each of them, recommended the  
2 investments to Plaintiffs as conservative. The falsity of the  
3 representations and the unsuitability of their recommendations and the  
4 injury which would foreseeably befall Plaintiffs were well known to  
5 the Defendants, yet Defendants, and each of them, authorized and ratified  
6 the false representations and recommendations despite such knowledge.

7  
8 117. As a direct and proximate result of the aforementioned conduct  
9 of Defendants, and each of them, Plaintiffs have suffered the loss of  
10 the amount they invested in the Towers Notes, plus interest at the legal  
11 rate according to proof.

12 118. As a further direct and proximate result of the aforementioned  
13 conduct of Defendants, and each of them, and from their realization  
14 that they were defrauded, Plaintiffs have suffered anxiety, worry, mental  
15 and emotional distress, and other incidental damages and out-of-pocket  
16 expenses, including attorneys' fees, all to Plaintiffs' general damage  
17 in a sum to be determined at the time of trial, but in any event, a  
18 sum in excess of the jurisdictional requirements of the above-entitled  
19 court.

20 119. Defendants' conduct as described herein was done with a  
21 conscious disregard for Plaintiffs' rights and with the intent to vex,  
22 injure or annoy Plaintiffs, such as to constitute oppression, fraud  
23 or malice under California Civil Code 3294, entitling Plaintiffs to  
24 punitive damages in an amount appropriate to punish or set an example  
25 of Defendants.

26 120. Furthermore, Defendants' conduct described herein was done  
27 with a conscious disregard for Plaintiffs' rights and with the intent  
28 to vex, injure or annoy Plaintiffs, thereby entitling Plaintiffs to  
prejudgment interest on all sums awarded at the time of trial in an

1 amount to be determined in accordance with California Civil Code 3291.

2 121. The acts and omissions of Defendants were engaged in with  
3 fraud, oppression and malice so as to justify an award of punitive  
4 damages according to proof.

5 TOLLING OF STATUTE OF LIMITATIONS

6 122. On February 9 or 10, 1993, representative Plaintiffs who had  
7 purchased Towers Notes filed Gold, et al. v. Towers Financial  
8 Corporation, Inc. et al., which was later consolidated for all purposes  
9 with other similar class action lawsuits in the case of In Re Towers  
10 Financial Corporation Noteholders Litigation, United States District  
11 Court, Southern District of New York, Master File No. 93 Civ. 0810 (WK)  
12 ["class action"]. Plaintiffs herein were ignorant of the filing of  
13 this action at the time that it was filed and did not hear about it  
14 until substantially later.

15 123. The "CONSOLIDATED AMENDED CLASS ACTION COMPLAINT" ["CACAC"]  
16 in the class action was filed on or about June 7, 1993. The CACAC named  
17 as a class of Defendants the brokerage houses that sold the Towers Notes,  
18 naming several brokerage houses as representative Defendants. This  
19 served to toll statute as to the brokerage house Defendants named herein  
20 even if they were not expressly named in the class action complaint.  
21 In re: Activision Securities Litigation, 1986 WL 15339 (N.D.Cal.);  
22 Appleton Electric Company v. Graves Truck Line, 635 F.2d 603 (1980);  
23 In re: Bestline Products Securities and Antitrust Litigation, 1975 WL  
24 386 (S.D.Fla.).

25 124. On or about June 10, 1994, the class plaintiffs filed the  
26 "SECOND CONSOLIDATED AMENDED CLASS ACTION COMPLAINT" ["SCACAC"]. The  
27 brokerage house Defendants herein were specifically named as a Defendants  
28 in the SCACAC.

1           125. The federal class action was certified for settlement purposes  
2 August of 1995. Plaintiffs did not opt out at that time, but remained  
3 class members. The case was again certified for settlement purposes  
4 in August of 1996. This notice also notified the class that the broker-  
5 dealers were going to be dismissed without prejudice. See page 11,  
6 paragraph 43. The notice stated that class members would be free to  
7 pursue claims against the brokerage houses. The notice expressly stated  
8 counsel's opinion that the statute of limitations was not a bar to the  
9 case. Plaintiffs did not opt out of this second certification. They  
10 could not have opted out as to the brokerage houses, since this was  
11 not an option.

12           126. This action has been filed because there was little or no  
13 interest on the part of class counsel in pursuing the brokerage house  
14 defendants due to their lack of financial ability to pay judgment, not  
15 due to lack of commonality of issues. See exhibit "3," judges transcript  
16 at page 93, line 21 through page 94 through line 16. There has been  
17 no determination as to certification or denial of certification as to  
18 the brokerage houses. The judge desired that class members be apprised  
19 of the need to act promptly to protect their rights. Page 97, line  
20 13 through page 98, line 7. This implies tolling until dismissal.

21           127. In this case, the plaintiffs did rely upon the pendency of  
22 the class action. Indeed, they actually received money from the class  
23 action. They did not opt out of the class action. The federal class  
24 action served to toll statute of limitations as to the Defendant  
25 brokerage houses even though it was dismissed as to those defendants  
26 prior to any ruling on certification as to them. Diaz, et al. v. Trust  
27 Territory of the Pacific Islands, et al., 876 F.2d 1401, 1408 (1989).  
28 Tosti v. City of Los Angeles, 754 F.2d 1485 (1985).

1 128. The SCACAC was recently voluntarily dismissed without prejudice  
2 as to the brokerage house defendants, with the presiding Federal District  
3 Court Judge specifically making reference to the tolling of the statute  
4 of limitations as to absent class members' claims against brokerage  
5 houses. [Court Transcript at page 93, lines 4 through 16]. This  
6 dismissal became final on december 11, 1996.

7 129. Plaintiffs contend that all applicable statutes of limitations  
8 were tolled as to the brokerage house Defendants in this action by the  
9 filing of the CACAC. The class action was certified on several occasions  
10 for settlement purposes and otherwise. Plaintiffs are all class members  
11 in the class action. The claims stated in the class action as against  
12 the Defendant brokerage houses are factually identical to those stated  
13 herein. However, the CACAC was voluntarily dismissed by the Plaintiffs  
14 therein in the fall of 1996 as to the Defendant brokerage houses on  
15 the basis that the Defendant brokerage houses lacked the financial  
16 resources to pay any large judgment obtained for the class. The statute  
17 of limitations on Plaintiffs's claims as against the Defendant brokerage  
18 houses were tolled during the pendency of the class action.

19 130. Plaintiffs contend that under In re: Activision Securities  
20 Litigation, 1986 WL 15339 (N.D.Cal.); Appleton Electric Company v.  
21 Graves Truck Line, 635 F.2d 603 (1980); In re: Bestline Products  
22 Securities and Antitrust Litigation, 1975 WL 386 (S.D.Fla.); Diaz, et  
23 al. v. Trust Territory of the Pacific Islands, et al., 876 F.2d 1401,  
24 1408 (1989); Tosti v. City of Los Angeles, 754 F.2d 1485 (1985) the  
25 pendency of the class action tolled the statute of limitations as to  
26 the Defendant brokerage houses for all of the causes of action contained  
27 herein and that this action is timely in any event under a four year  
28 statute of limitations as to the pendent state causes of action for

breach of fiduciary duty, breach of contract, and breach of trust as established by San Filippo v. Griffiths (1975) 51 Cal. App. 3d 640, 645, 124 Cal. Rptr. 399, 402; Kornbau v. Evans (1944) 66 Cal. App. 2d 677, 683-684, 152 P. 2d 651, 655; Robuck v. Dean Witter & Co., Inc. (1996) 649 F.2d. 641, 645 n. 2; Davis & Cox, et al. v. Summa Corporation, et al. (1985); 751 F.2d 1507, 1520, n. 3; Stalberg v. Western Title Ins. Co. (1991) 230 Cal. App. 3d 1223, 1230, 282 Cal. Rptr. 43 [Citing Sanchez v. South Hoover Hospital (1976) 18 Cal. 3d 93, 101, 132 Cal. Rptr. 657]; Schneider v. Union Oil of California (1975) 6 Cal. App. 3d 987, 86 Cal. Rptr. 399; David K. Lindemuth Co., et al. v. Shannon Financial Corporation, et al. (1987) 660 F.Supp. 261, 264-265; Federal Savings and Loan Insurance Corporation, et al. v. Kidwell, et al. (1989) 716 F.Supp 1315, 1318 and Federal Deposit Insurance Corporation, et al. v. McSweeney, et al. (1992) 976 F.2d 532, 535, n. 2. as Plaintiffs did not reasonably discover the facts of the misconduct of the Defendants until after Towers filed bankruptcy on or about March 29, 1993.

CLAIMS FOR RELIEF

First Cause Of Action  
(Declaratory Relief)

131. Plaintiffs refer to and incorporate by reference herein each and every allegation contained above.

132. A present controversy exists between certain Plaintiffs and certain Defendants in that Plaintiffs are informed and believe the following:

a. Defendants will seek to avoid liability for their fraud by pointing to adhesion contracts of indemnity, disclaimers allegedly signed or received by Plaintiffs in connection with the sale of the

1 securities in issue herein or other complicated formal documents  
2 associated with the offering of Towers Notes. Without admitting that  
3 they signed or received any such documents, Plaintiffs contend that  
4 such exculpatory documents are adhesion contracts are void or voidable,  
5 because use of such disclaimers to avoid liability for fraud violate  
6 public policy and Civil Code §1668 or that Plaintiffs did not receive  
7 actual or constructive notice of the fraud at issue herein by such  
8 documents or that the breach of fiduciary duty by Defendants vitiates  
9 such documents.

10  
11 b. Plaintiffs contend, and Defendants deny, that Plaintiffs  
12 are entitled to tolling of all applicable statutes of limitations as  
13 against the Defendants who were named as Defendants in the class action.

14 133. Plaintiffs require the Court to adjudicate these controversies  
15 and order declaratory relief as to these controversies.

16 Second Cause Of Action  
17 (For Violations of Section 10(b) of  
18 the Exchange Act and Rule 10b-5(a), (b) and (c))

19 134. Plaintiffs refer to and incorporate by reference herein each  
20 and every allegation set forth above.

21 135. Defendants participated in the conception and/or implementation  
22 of the fraudulent scheme alleged herein, i.e., to issue market and sell  
23 the Towers Notes by (i) engaging in devices, schemes and/or artifices  
24 to defraud; and (ii) engaging in acts, practices and a common course  
25 of business which operated as a fraud or deceit upon Plaintiffs in  
26 connection with their purchases of Towers Notes.

27 136. At all relevant times, the true nature of the Towers Notes  
28 and the risks associated with an investment in the Notes were  
fraudulently concealed from and/or misrepresented to Plaintiffs by  
defendants, each of whom participated in, controlled, approved and/or



1 acquiesced in the fraudulent acts, practices and courses of conduct  
2 complained of herein, including the making and/or dissemination of false  
3 and misleading statements to the investing public and/or state or federal  
4 governmental regulatory entities, as alleged herein.

5 137. Among these fraudulent acts, practices and courses of conduct  
6 were (1) the failure to disclose the fact that the investments were  
7 sold in violation of state and federal securities laws, (2) the true  
8 nature of the operations and finances of Towers and its subsidiaries  
9 (e.g., the Ponzi scheme detailed throughout the Complaint); (3) the  
10 failure to disclose the systematic and blatant violations of the  
11 controlling provisions of the Towers Bond Indentures, which foreseeably  
12 led the Trustee to declare a default on the Bonds, the resulting default  
13 on the Notes, and the collapse of the Ponzi scheme; (4) the making of  
14 false and/or deceptively incomplete statements to state and/or federal  
15 regulatory agencies or entities for the purpose and with the effect  
16 of improperly securing regulatory approval and/or exemptions from various  
17 registration requirements; and/or (5) the failure to correct the false  
18 and misleading statements to investors and/or regulators.

19 138. Defendants knew or were reckless in not knowing that, but  
20 for the fraudulent scheme described herein, the Towers Notes would not  
21 have been marketable or sellable, i.e., Defendants fraudulently created  
22 a market for the Notes.

23 139. Similarly, Defendants knew or recklessly disregarded that,  
24 but for their fraudulent scheme, as alleged herein, including  
25 Defendants, false and misleading statements to state and/or federal  
26 regulators, Defendants could not have secured either (1) regulatory  
27 approval for the issuance of the Notes and/or (2) exemptions from the  
28 registration requirements of the SEC and/or the states in which the

1 Notes were marketed and sold. As a result, Defendants' fraudulent scheme  
2 constituted a fraud on the regulatory process and/or the registration  
3 process.

4 140. Plaintiffs relied on the integrity of the market, the Offering  
5 Memoranda, the regulatory process and/or the registration process in  
6 deciding to purchase the Towers Notes insofar as they relied on the  
7 fact that (1) the Notes were entitled to be marketed; (2) the Offering  
8 Memoranda contained complete and accurate disclosures; (3) the Notes  
9 were properly entitled to regulatory approval; and/or (4) the Notes  
10 were properly entitled to an exemption from registration.

11 141. Defendants knew or recklessly disregarded that their acts  
12 would wrongfully enable the Notes to be successfully issued, marketed  
13 and sold; that Plaintiffs would rely on the integrity of the market,  
14 the regulatory process and/or the registration process for the Notes  
15 in deciding to purchase the Notes; that the Notes were not properly  
16 entitled to be issued, marketed or sold; and that Plaintiffs would be  
17 damages thereby.

18 142. Had Plaintiffs known the material adverse information which  
19 was not disclosed by Defendants to the investing public and/or  
20 regulators, they would not have purchased the Notes.

21 143. As a result of the wrongful conduct alleged herein, Plaintiffs  
22 have suffered damages in an amount to be proven at trial.

23 144. By reason of the foregoing, Defendants have violated Section  
24 10(b) of the Exchange Act and Rule 10b-5(a), (b) and (c) promulgated  
25 thereunder and Plaintiffs are entitled to damages in an amount to be  
26 proven at trial.

27 145. Plaintiffs were not aware of any facts constituting the  
28 violations of Section 10(b) and Rule 10b-5 alleged herein i.e., that

1 the Notes were not entitled to (1) be marketed or sold; (2) regulatory  
2 approval or (3) exceptions from registration until, at the very earliest,  
3 December 1992, when Shawmut sent Notices of Default to each of the  
4 Healthcare Subsidiaries, upon Shawmut's receipt of Towers' 1992 Annual  
5 Report which gave the first public notice of Towers' and the Healthcare  
6 Subsidiaries, violations of the Indenture Covenants. The class action  
7 tolling the statute of limitations in this case was commenced within  
8 one year of the date that Plaintiffs became aware of the facts  
9 constituting the violations alleged herein and within three years of  
10 the date Plaintiffs purchased their Notes. As a result, the claims  
11 alleged in this Count were brought within the applicable statute of  
12 limitations.

13 Third Cause Of Action

14 (For Violation of Sections 12(1) Of The Securities Act)

15 146. Plaintiffs refer to and incorporate by reference herein each  
16 and every allegation set forth above.

17 147. Defendants were sellers and offeror of securities within the  
18 meaning of section 12(i) of the Securities Act, 15 U.S.C. § 771(1).

19 148. Defendants, directly, or indirectly made use of means or  
20 instruments of transportation or communication in interstate commerce  
21 or of the mails to sell and offer to sell securities when no registration  
22 statement was filed or was in effect as to such securities when no  
23 exemption from registration was available.

24 149. Plaintiffs purchased the notes in the offering and at such  
25 time were innocent of all comparative negligence.

26 150. Plaintiffs seek to recover the full amount of consideration  
27 paid for said securities, with interest thereon, upon tender of such  
28

1 securities, which tenders are hereby made, or in the alternative, seek  
2 damages sustained as a result of the sale of such securities.

3 151. This claim under section 12(i) is brought on behalf of all  
4 Plaintiffs who purchased Notes from the Selling Defendants on or after  
5 February 9, 1992.

6 Fourth Cause Of Action

7 (For Violation Of Sections 12(2) Of The Securities Act)

8 152. Plaintiffs refer to and incorporate by reference herein each  
9 and every allegation set forth above.

10 153. Defendants, severally and in concert, directly and indirectly  
11 participated in a continuous course of conduct, by the use of the mails,  
12 wires, and other means and instrumentalities of communication and  
13 transportation and interstate commerce, and offered for sale, sold and  
14 were the proximate cause and substantial and necessary factors in the  
15 sale of the Notes to the Plaintiffs, by means of written promotional  
16 materials, oral communications, in violation of Section 12(2) of the  
17 Securities Act.

18 154. The domestic offering memoranda contained untrue statements  
19 of material facts, and omitted to state material facts necessary to  
20 make the statements made not misleading, in light of the circumstances  
21 under which they were made, as set forth above.

22 155. Plaintiffs accordingly seek to recover the full amount of  
23 the consideration paid for those securities, together with interest  
24 thereon upon tender of such securities, which tender is hereby made,  
25 or in the alternative, seek damages sustained as a result of the sale  
26 of such securities.

27 Fifth Cause Of Action

28 (Violations of Section 15 of the Securities Act)  
Controlling Person Liability)

1           156. Plaintiffs refer to and incorporate by reference herein each  
2 and every allegation set forth above.

3           157. Defendants are liable to Plaintiffs as controlling persons  
4 under Section 15 of the Securities Act for all the unlawful acts set  
5 forth herein which constituted violations of Sections 12(1) and (2)  
6 of the Securities Act because each such Defendant possessed, directly  
7 or indirectly, the power to influence and exercised the same, to direct  
8 the activities conducted by or attributable to the entities which they  
9 control.

10           158. By reason of the foregoing, Plaintiffs are entitled to damages  
11 from these Defendants in an amount to be proven at trial and such other  
12 and further relief as the Court deems proper.

13                               Sixth Cause Of Action  
14                               (Violation of Section 20 of the Exchange Act  
15                               Controlling Person Liability)

16           159. Plaintiffs refer to and incorporate by reference herein each  
17 and every allegation set forth above.

18           160. The Defendants are liable to Plaintiffs as controlling persons  
19 under Section 20 of the Exchange Act for all the unlawful acts set forth  
20 herein which constituted violations of Section 10(b) of the Exchange  
21 Act because each such Defendant possessed, directly or indirectly, the  
22 power to influence and exercised the same, to direct the activities  
23 conducted by or attributable to the entities which they control in  
24 connection with the fraudulent plan and scheme alleged throughout this  
25 Complaint.

26           161. By reason of the foregoing, Plaintiffs are entitled to damages  
27 from these Defendants in an amount to be proven at trial and such other  
28 and further relief as the Court deems proper.

Seventh Cause Of Action

(Breach of Fiduciary Duty  
And Breach of Trust Relationship Against All Defendants)

162. Plaintiffs refer to and incorporate by reference herein each and every allegation contained above.

163. Plaintiffs, having reasonably placed their trust and confidence in Defendants so as to create a confidential, fiduciary and trustee-beneficiary relationship, reasonably relied upon the misrepresentations, omissions and fraudulent recommendations of Defendants, as alleged above, to their damage. Defendants' acts, omissions, misrepresentations and concealments as alleged above in connection with the recommendation and sale of the Towers Notes constituted a breach of fiduciary duty and a breach of the duties owed by a trustee to a beneficiary, all proximately causing the injuries and damages alleged herein.

Eighth Cause Of Action  
(Breach of Written Contract As Against  
The Brokerage House Defendants Only)

164. Plaintiffs refer to and incorporate by reference herein each and every allegation contained above.

165. Plaintiffs and the Brokerage House Defendants entered into written account agreements prior to the time that the Defendants recommended and sold the Towers Notes to Plaintiffs. These written agreements contained, as implied terms, the covenant of good faith and fair dealing and the fiduciary obligations owed by a brokerage house to its customers. Plaintiffs for their part performed all of the terms and conditions of such written agreements.

166. Defendants' acts, omissions, misrepresentations and concealments as alleged above in connection with the recommendation and sale of the Towers Notes constituted a breach of the implied terms of the written



1 contracts between the parties, all proximately causing the injuries  
2 and damages alleged herein.

3  
4 Ninth Cause Of Action  
(Sale of Unregistered Securities)

5 167. Plaintiffs refer to and incorporate by reference herein each  
6 and every allegation contained above.

7 168. The securities sold to Plaintiffs were required to be qualified  
8 under Corporations Code §§25111, 25112, or 25113 or exempted under  
9 Section 25100, et seq., but were not so qualified or exempted, and thus,  
10 the sale of the securities violated Corporations Code §25110 and/or  
11 Corporations Code §25503 or similar state blue sky laws.

12 169. That as a result of the above described acts, Defendants are  
13 liable to Plaintiffs, and Plaintiffs are entitled to, and hereby do,  
14 rescind the above securities purchases and seek restitution and damages.

15 Tenth Cause Of Action  
(Fraud in the Sale of Securities)

16 170. Plaintiffs refer to and incorporate by reference herein each  
17 and every allegation contained above.

18 171. The transactions alleged above constituted the offer and sale  
19 to Plaintiffs of securities through the making of oral or written untrue  
20 statements of material fact or the omission of material facts necessary  
21 in order to make statements, in light of the circumstances under which  
22 they were made, not misleading, all in violation of Corporations Code  
23 §§ 25401, 25501, 25504, 25504.1 and 25504.2 and/or other state blue  
24 sky laws. Defendants are liable for such fraud either as direct  
25 perpetrators or as controlling persons or aiders and abettors.

26 172. That as a result of the above described acts, Defendants are  
27 liable to Plaintiffs, who are entitled to, and hereby do, rescind the  
28

1 above described investments and seek restitution of the funds and  
2 damages.

3 173. That as a result of the above described acts, Defendants are  
4 liable to Plaintiffs, and Plaintiffs are entitled to, and hereby do,  
5 rescind the above securities purchases and seek restitution and damages.

6 Eleventh Cause Of Action  
7 (Professional and Ordinary Negligence Against All Defendants)

8 174. Plaintiffs refer to and incorporate by reference herein each  
9 and every allegation contained above.

10 175. The misrepresentations, acts and omissions of the Defendants,  
11 and each of them, were professionally and ordinarily negligent, both  
12 in taking affirmative action to recommend and sell the Towers Notes  
13 to Plaintiffs, but also for failing to properly supervise the sales  
14 activities of employees and registered representatives involved in the  
15 sale of the investments to Plaintiffs, all so as to proximately cause  
16 the injuries and damages alleged herein.

17 176. Plaintiffs, having reasonably placed their trust and confidence  
18 in Defendants, and each of them, so as to create a fiduciary  
19 relationship, reasonably relied upon the intentional misrepresentations  
20 and omissions and negligent recommendations of Defendants and the  
21 negligent supervision of employees and registered representatives of  
22 Defendants as alleged herein. Defendants misrepresented the nature  
23 and quality of the recommended investments and knowingly placed  
24 Plaintiffs into unsuitable investments in order to earn a higher  
25 commission, with a reckless disregard for Plaintiffs' rights, and with  
26 full knowledge of the harm that would befall Plaintiffs as a result  
27 of their advice and false assurances.

1 177. The conduct of Defendants, and each of them, constituted  
2 negligence, either professional or ordinary, all proximately causing  
3 the injuries and damages alleged herein.

4 178. Plaintiffs were blamelessly ignorant of the true nature of  
5 such investments and the injuries that they had suffered until within  
6 the applicable statute of limitations for this action.

7 179. As a direct and proximate result of the aforementioned wrongful  
8 conduct of Defendants, and each of them, Plaintiffs have suffered  
9 investment losses for a total amount to be shown at the time of trial.

10 180. As a further direct and proximate result of the aforementioned  
11 conduct of Defendants, and each of them, and from their realization  
12 that they were defrauded, Plaintiffs have suffered anxiety, worry, mental  
13 and emotional distress, and other incidental damages and out-of-pocket  
14 expenses, including attorneys' fees, all to Plaintiffs' general damage  
15 in a sum to be determined at the time of trial, but in any event, a  
16 sum in excess of the jurisdictional requirements of the above-entitled  
17 court.

18 181. Defendants' conduct as described herein was done with a  
19 conscious disregard for Plaintiffs' rights and with the intent to vex,  
20 injure or annoy Plaintiffs, such as to constitute oppression, fraud  
21 or malice under California Civil Code § 3294, entitling Plaintiffs to  
22 punitive damages in an amount appropriate to punish or set an example  
23 of Defendants.

24 182. Furthermore, Defendants' conduct described herein was done  
25 with a conscious disregard for Plaintiffs' rights and with the intent  
26 to vex, injure or annoy Plaintiffs, thereby entitling Plaintiffs to  
27 prejudgment interest on all sums awarded at the time of trial in an  
28 amount to be determined in accordance with California Civil Code § 3291.

1 WHEREFORE, Plaintiffs pray for judgment against Defendants,  
2 and each of them, as follows:

3 1. Economic damages, plus interest at the legal rate, together  
4 with general, special, compensatory, incidental, consequential, economic  
5 and/or treble damages as applicable to each particular cause of action  
6 as has been alleged according to proof;

7 2. Judgments of rescission together with an award against each  
8 Defendant receiving money from Plaintiffs together with an award of  
9 general, special, compensatory, incidental and/or economic damages,  
10 and interest in a sum to be determined at the time of trial;

11 3. Declaratory relief, the imposition of a constructive or resulting  
12 trust and an accounting;

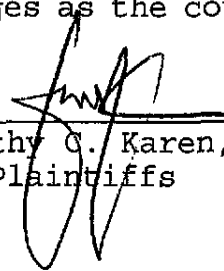
13 4. Punitive and exemplary damages in an amount appropriate to punish  
14 or set an example of Defendants;

15 5. Prejudgment interest on all damages awarded to Plaintiffs in  
16 an amount to be determined in accordance with California Civil Code  
17 §3291;

18 6. Costs of suit; and

19 7. For such other and further damages as the court deems proper.

20 Dated: 3/10/97

21 By:   
22 Timothy C. Karen, Attorney  
23 for Plaintiffs  
24  
25  
26  
27  
28